

OWOSSO

Planning Commission



Regular Meeting
6:30pm, Monday, January 22, 2018
Owosso City Council Chambers



MEMORANDUM

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

DATE: January 19, 2018
TO: Chairman Wascher and the Owosso Planning Commission
FROM: Susan Montenegro, Asst. City Manager / Director of Community Development
RE: Regular Planning Commission Meeting: January 22, 2018

The planning commission shall convene at 6:30 pm on Monday, January 22, 2018 in the city council chambers of city hall.

According to the Michigan Planning Enabling Act, an annual report of planning commission activities is required. Unfortunately, this was one of the deficiencies noted in the Report of Findings from the MEDC; however, this report corrects that so YAY, one more item checked off! A copy of this report has been completed and is a part of this packet for your review. The report will also be presented to council for their review. I would like to express my sincere appreciation to each of you for your dedication to the city as a planning commission member.

The commission will also continue the discussion of the attached draft language for Medical Marijuana Facilities within the city of Owosso. Please take a moment to read through the draft language; 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

**MINUTES
REGULAR MEETING OF THE OWOSSO PLANNING COMMISSION
COUNCIL CHAMBERS, CITY HALL
MONDAY, DECEMBER 11, 2017 – 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: Assistant City Manager Susan Montenegro

MEMBERS PRESENT: Chairman Wascher, Vice-Chair Livingston, Secretary Janae Fear (arrived at 6:32 p.m.), Commissioners Jake Adams, Michelle Collison, Tom Cook, Brad Kirkland (joined discussion after Site Plan approval) and Tom Taylor.

MEMBERS ABSENT: Commissioner Dan Law

OTHERS PRESENT: Assistant City Manager Susan Montenegro, Bill Brown, City Attorney, Michael Brogran of the Hathaway Group, Ron Mallory, Contractor representing Elite Early Learning Center and Kendra Nichols, Director of the Elite Early Learning Center, Justin Horvath, SEDP.

APPROVAL OF AGENDA:

MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY COMMISSIONER TAYLOR TO APPROVE THE AGENDA FOR DECEMBER 11, 2017.

YEAS ALL. MOTION CARRIED.

APPROVAL OF MINUTES:

MOTION BY COMMISSIONER COOK, SUPPORTED BY VICE-CHAIR LIVINGSTON TO APPROVE THE MINUTES FOR THE NOVEMBER 27, 2017 MEETING.

YEAS ALL. MOTION CARRIED.

COMMUNICATIONS:

1. Staff memorandum.
2. PC minutes from November 27, 2017.
3. Site Plan Review Application – 912 S. Washington
4. Draft ordinance for Medical Marihuana

COMMISSIONER/PUBLIC COMMENTS

Michael Brogran of the Hathaway Group spoke about the draft Medical Marihuana ordinance.

Vice-Chair Livingston asked about the property on W. Oliver St that was just rezoned. It appears as if they are removing the front drive. There is a dumpster in the back without a screen or fence. Ms. Montenegro stated that removing the front drive was part of the requirements. At this time, a site plan review is not required as they are not changing the foot print of the area. She will address the screening of the dumpster with the owners.

Chairman Wascher stated that the Stewart St construction has been suspended for the winter, but the stop signs and street signs have not been put back in place. Ms. Montenegro will bring this to the DPW's attention. Commissioner Fear read about the suspended work on Facebook but were notices mailed to area residents? Ms. Montenegro will check into it.

PUBLIC HEARING:

None

SITE PLAN REVIEW:

912 S. Washington

Ron Mallory, Mallory Builders, presented for Elite Early Learning Center. The Center is requesting to build an indoor playground for the kids to have year round ability to play, regardless of weather. 92 x 95 pre-engineered building, with additional parking. The existing playground equipment and outdoor play area is currently present. An outdoor play area will still exist. The drainage would tie into the existing storm drain on site. Floor elevation needs to be above existing grade. Commissioners questioned if there was any feedback from the neighbors. Site plan reviews do not require a mailing to surrounding residents. This language could be added to the Planning Commission By-Laws that would require notices mailed within 300' for Site Plan Reviews.

MOTION BY VICE-CHAIR LIVINGSTON AND SUPPORTED BY COMMISSION COLLISON TO APPROVE THE APPLICATION FOR SITE PLAN REVIEW FOR 912 S WASHINGTON STREET, PARCEL # 050-651-039-006-00 AS APPLIED AND ATTACHED HERETO IN PLANS DATED DECEMBER 1, 2017 BASED ON THE FOLLOWING CRITERIA: AS PRESENTED.

ROLL CALL VOTE:

AYES: COMMISSIONER ADAMS, COLLISON, COOK, FEAR, TAYLOR, VICE-CHAIR LIVINGSTON AND CHAIRMAN WASCHER.

NAYS: NONE

ABSENT: COMMISSIONERS KIRKLAND AND LAW

MOTION PASSED

At this time, newly appointed Commissioner Bradley Kirkland was introduced and joined the meeting discussion.

BUSINESS ITEMS:

None

ITEMS OF DISCUSSION:

1. Draft ordinance language for Medical Marihuana Facilities Licensing. Look at proposed ordinance language and discuss. This discussion covers the Police Power Ordinance Draft.
 - Ms. Montenegro presented a draft of the Police Power Ordinance. This draft comes from MSU and is much less involved as opposed to the previous draft presented at last meeting. This draft is only 10 pages as opposed to the other which was 27 pages.
 - The first draft included a great deal of language that is not necessary for the City of Owosso.

- This draft covers the types allowed, how many and appropriate locations.
- The State’s Emergency Rules came out last week and covers certain areas such as co-location.
- Suggested Changes:
- Section 1003. Authorization of Facilities and Fees:
 - A. – Four locations of Provisioning Centers recommended. The other types of licenses would be open-ended, as zoning districts, the market, etc. would restrict the number.
 - Reminder - the draft goes to the City Council for final approval. They may make changes.
 - B. Add 3 years and add official review after 1 year by Planning Commission, then Council reviews after that.
- Section 1004. Requirements and Procedure for Issuing License:
 - A. Add wording including City issues and State issues as well.
 - B. Let staff determine.
 - Look at Liquor License application for sample.
 - F. Verify with Staff if 14 days is adequate or not.
- Section 1007. Penalties and Enforcement:
 - A. Remove wording for a municipal civil infraction and add Misdemeanor.
- Zoning Districts:
 - A. A grower would be allowed in I-1 districts.
 - B. Processor would be allowed in I-1 districts.
 - C. Provisioning centers would be allowed in I-1 districts
 - D. Secure transporter would be allowed in I-1 districts.
 - E. Safety compliance facility would be allowed in I-1 districts.
 - Additional discussion was held regarding whether to allow provisioning centers in the downtown business district.

Ms. Montenegro suggested that planning commission members take time to drive around town, looking at specific zoning areas looking at land use in the surrounding areas prior to the next meeting in January. Amendments to the above sections will be made and presented at the next meeting on January 22, 2018. Planning Commission will go over the remaining of the draft ordinance pages 6 to 10.

COMMISSIONER/PUBLIC COMMENT:

None

ADJOURNMENT:

**MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY COMMISSIONER TAYLOR TO ADJOURN AT 8:25 P.M. UNTIL THE NEXT MEETING ON JANUARY 22, 2018.
YEAS ALL, MOTION CARRIED.**

Janae L. Fear, Secretary

City of Owosso

Planning Commission Annual Report

2017



To: Members of the Owosso City Council
Don Crawford, City Manager
Bill Brown, City Attorney
Members of the Owosso Planning Commission
Members of the Owosso Zoning Board of Appeals

2017 PLANNING COMMISSION ANNUAL REPORT

The Michigan Planning Enabling Act, PA 33 of 2008, as amended, requires that an annual report of planning commission activities be prepared for the legislative body that reflects the administration and enforcement of the master plan and zoning ordinance, including recommendations for amendments or supplements to the ordinance. The statute does not require approval of this report but simply that it is filed with the city council.

City staff would like to express their sincere appreciation to the citizen volunteers who are an integral part of the city government and dedicate their time without compensation to make Owosso's government reflective of the attitudes and beliefs of all of its residents.

INTRODUCTION

Long range planning for the physical development of the city of Owosso is the primary focus of the economic and community development department, which oversees planning and zoning. In addition to preparing and maintaining the master plan, the department is responsible for the administration of the zoning ordinance and other tools that are implemented to attain the goals and objectives listed in the plan.

Planning Commission

The Planning Commission is a nine-member volunteer board appointed by the mayor and approved by the city council. They are responsible for planning the future growth of the community and review of specific development projects including special use permits, zoning ordinance amendments, and property rezoning requests. The planning commission is also charged with the preparation and adoption of plans for the city including the master plan and capital improvement plan.

The planning commission serves in an advisory capacity to the city council, deliberating on each around a set of standards, and providing a recommendation to the city council.

Planning enabling legislation outlines that the commission should represent a broad spectrum of interests, including industry, transportation, commerce, education, agriculture, etc.; this same statute outlines that the commission should represent the various geographic areas of the city. As provided for by statute, there is one city council member appointed to the planning commission with voting rights and one member of the planning commission also serves on the zoning board of appeals. The director of the economic and community development department serves as staff liaison for the planning commission and has no voting rights.

The commission conducts regular, public meetings in city council chambers at city hall on the fourth Monday of each month at 6:30 p.m. (except for the month of December, which is held on the second Tuesday). Meeting agendas are posted on the city website by 5:00 p.m. on the Friday preceding the meeting. The agendas and minutes are also posted on the city website. Planning commission members currently appointed are listed below.

Planning commission member	Term expires
William Wascher, Chairperson	6-30-2018
Francis Livingston, Vice-Chair	6-30-2018
Janae Fear, Secretary	6-30-2018
Daniel Law, Council Rep	11-9-2020
Jake Adams	6-30-2019
Michelle Collison	6-30-2019
Tom Cook	6-30-2019
Brad Kirkland	6-30-2020
Thomas Taylor	6-30-2020

The Owosso planning commission met 11 times in 2017. Attendance is listed below.

2017 Planning Commission Attendance										
	Wascher	Adams	Fear	Collison	Cook	Law	Livingston	Smith	Taylor	Weaver
Jan	x		x	x	x		x			
Feb	NO MEETING									
Mar	x		x	x			x	x	x	x
Apr	x			x		x	x	x	x	
May	x		x		x	x		x		x
Jun	x		x	x		x	x		x	resigned
Jul		x	x				x	x	x	
Aug	x	x	x	x	x	x	x			
Sept	x		x	x	x	x	x	resigned		
Oct	x	x	x	x	x	x	x			
Nov	x	x	x	x	x	x	x		x	
Dec	x	x	x	x	x		x		x	

Site Plan Review

The zoning ordinance requires that a sealed site plan be submitted and approved for all development or redevelopment of multi-family, commercial, and industrial structures and/or off-street parking lots (new or expansions). The primary intent of the review is to ensure that the proposed development complies with regulations in the zoning ordinance as well as to insure proper infrastructure is in place to support the project and that appropriate pedestrian, vehicular traffic flow, and stormwater management is provided. Site plans are submitted to the economic and community development department and reviewed by this

department as well as the building department and department of public services. A site plan is a legally binding document, and therefore, the building official inspects the property throughout construction to ensure compliance with the approved site plan. In 2017, six site plan reviews were performed and exhibit a significant investment in our community.

Special Use Permits

Each zoning district in the zoning ordinance outlines the land uses that are permitted by right in each district and do not need additional zoning approval. The zoning ordinance also lists special land uses that would be allowed in any district; these special land uses are those uses of land that are not necessarily incompatible with the uses permitted in each zoning district, but require review to ensure they would be compatible with surrounding land uses and additional oversight as to how they are implemented.

The specific special uses provided for by ordinance are subject to public hearing at the planning commission. Based on the local ordinance, the city council is authorized to make final determinations as to the approval, approval with conditions, or denial of special use permits. Each request is reviewed to ensure compliance with the standards outlined in the ordinance.

In 2017, one request for a special use permit was received for a group day care center.

Rezoning Requests

Rezoning requests are typically submitted by a property owner, though the city could initiate such a request. A rezoning request needs to be evaluated by looking at the highest and most intensive use of land that could be allowed under the proposed zoning district, zoning districts and land uses of the surrounding properties, and compliance with the master plan and future land use map.

A traditional rezoning approval cannot be made with conditions - the zoning district simply changes, and if the request is approved any land uses allowed in the new zoning classification would be allowed on the property. In 2006, legislation was approved to conditional rezoning in Michigan communities. Conditional rezoning allows for conditions on a rezoning request but with strict limitations and tied to a specific development and operations plan submitted as part of the application. In 2017 there were two rezoning requests, one of which was approved by city council as a conditional rezoning.

Ordinance Amendments

Proposed ordinance amendments can be initiated by the public, staff, or by the city council. Generally, the discussion is placed on the meeting agenda for initial review to determine the level of interest from the planning commission and/or city council and what type of parameters should be included in a draft ordinance. Providing there is support, a draft ordinance will later be submitted and a public hearing held.

In 2017 there were two zoning ordinance amendments considered by the planning commission – signs (sign ordinance revision that was necessary due to recent federal court decisions) and off-street parking in downtown. Planning commission has also been working on drafting ordinance language for new legislation regarding the regulating of medical marihuana facilities and the licensing process.

Each ordinance amendment includes research of best practices, review of concerns in current ordinances, and analysis of local conditions to determine what revisions would be appropriate. Additionally, most often community engagement efforts are undertaken to determine community support or opposition, which allows for revisions up front that help ensure proposed ordinances are in alignment with both professional recommendations and community perspective.

Following the future master plan update, staff expects a significant number of amendments to the zoning ordinances will be required.

Capital Improvement Program

Planning enabling legislation requires the preparation and use of a capital improvement plan (CIP) that attempts to determine and prioritize the anticipated needs of the city for a six year minimum time period. The approval of this document does not place any particular project into the budget but only serves as a guideline to determine future budgeting needs. Each year, the intent is to revise the plan to accommodate current or projected future needs. Staff and planning commission are working to develop the CIP within the coming year. Planning enabling legislation requires the CIP to be reviewed by the planning commission to ensure projects are consistent with the goals and objectives of the master plan.

Planning Commission 2017 Annual Report - Summary of Meetings

Date	Petition Type	Request	Petitioner	PC Action	CC Action
Jan	Site Plan Review 344 W. Main Parcel # 050-120-006-008-00	Rehab a 28,561 square foot mixed use building	David Russell, Owner Jeffrey Drown, Kincaid/Henry Builders	Approved with conditions	N/A
Feb	Monthly meeting cancelled - Attended MSU workshop on Medical Marijuana Facilities Licensing in Lansing				
Mar	Sign Ordinance Update	Commission members discussed a potential draft for a sign ordinance to repeal and replace current sign ordinance to meet content neutral requirements		Discussion held, suggested changes to draft will be added and brought back to planning commission in April	N/A
	Medical Marijuana Workshop	Discussion regarding MSU workshop		Discussion	N/A
Apr	Site Plan Review 745 McMillian Parcel # 050-010-008-001-00	Addition of 9,600 square foot building to existing building	Scott Perrin, Perrin Construction	Approved	N/A

	Sign Ordinance Update			Set public hearing for May meeting	N/A
May	Site Plan Review 705 McMillian Parcel # 050-010-008-002-00	Addition of 20,000 square foot building	Scott Perrin, Perrin Construction	Approved with conditions	N/A
	Public Workshop Repeal and replace Chapter 26-Signs	Repeal and Replace current sign ordinance		Approved	CC approved 6-19-17 Ordinance 783
June	Special Use Permit 1000 State Parcel # 050-114-001-020-00	Special use permit requested for a group daycare	Amber Coe, Owner	Approved with conditions	CC approved 7-3-17 Reso 104-2017
July	Ordinance revision	Sec 38-380 (12)e Off-street parking		Leave the same	N/A
	Ordinance revision	Sec 38-380 Off-street parking in downtown		Approved revisions	CC approved 9-5-17 Ordinance 787
Aug	Rezoning 621 W. Oliver Parcel # 050-660-004-006-00	From R-1 to OS-1	Michael Cross, Retriever Software	Approved	CC approved conditional rezoning 10-16-17 Ordinance 788
	Site Plan Review 503 S. Shiawassee Parcel # 050-651-000-033-00	Addition of 3,000 square foot storage unit	Tom Lister, Owner David McDade, Architect	Approved	N/A
	Set two workshop dates for Medical Marijuana	September 28 at 7-9 pm and October 21 10am-noon.			N/A
	Set casual workshop date for RRC Report of Findings	Hold a workshop with community stakeholders, planning commission and city council to have open discussion on the Report of Findings and discuss next steps on October 4 at 7 pm			N/A

Sept	Rezoning 912 S. Washington Parcel # 050-651-039-006-00	Cleanup multiple zoning designations and zone entire parcel as B-1	Kendra Nichols, Owner	Approved	CC approved 11-6-17 Ordinance 789
	Site Plan Review 1460 N. M-52 Parcel # 050-535-000-007-00	Increase parking lot from 49 spaces to 81 spaces	Eric Redmond, Owner Jed Dingens, Architect	Approved	N/A
	Citizen Participation Plan	CPP document presented for discussion		Approved	CC approved 10-16-17 Reso 123-2017
Oct	Capital Improvement Plan	Mr. Germain explained the capital improvement plan and the role of planning commission			
	Master Plan Update	Mr. Germain explained the process to update the existing master plan utilizing the report of findings in the RRC process	Christopher Germain, MEDC Planner	Discussion	
Nov	MSU MMFLA webinar	Next steps in local regulation of Medical Marijuana Facilities			N/A
Dec	Site Plan Review 912 S. Washington Parcel # 050-651-039-006-00	Addition of 8,740 square foot indoor playground	Kendra Nichols, Owner Ron Mallory, Contractor	Approved	N/A

Zoning Board of Appeals

Purpose

The Zoning Board of Appeals (ZBA) is the only board authorized to interpret, waive and modify requirements of the city of Owosso Zoning Ordinance. This board operates very much like a court of appeals. Decisions made by the zoning board of appeals are final. Relief from ZBA decisions are granted

only by the circuit court. They review and consider all petitions for appeals or variances to the requirements of the zoning ordinance. Variance requests include dimensional variances, such as requests for signage in excess of that which is permitted, reductions in parking or setback requirements, and buildings in excess of the size permitted by the ordinance. The other type of variance request is for a use variance, when one is asking for approval to use the property for something not otherwise permitted by right.

A dimensional variance can be approved by a simple majority of the members of the ZBA, but a use variance requires a two-thirds approval vote from its members. Based on state statute and subsequent case law, persons applying for variances must be able to prove to the ZBA that a “*practical difficulty*” exists if they are compelled to follow the ordinance as it relates to dimensional variances and that an “*unnecessary hardship*” exists in order to qualify for a use variance. The ZBA is also authorized to review appeals from an aggrieved party regarding a decision of the zoning administrator to determine if an interpretation or ruling was sufficient. Under state law, an individual’s appeal of a decision of the ZBA must be filed in circuit court.

The Michigan Zoning Enabling Act of 2006, as amended, allows for one regular member of the zoning board of appeals to also be a member of the planning commission. State zoning legislation also provides for the opportunity to appoint two additional “alternate” members.

The Owosso Zoning Board of Appeals consists of five members who were appointed by city council. The city council may also appoint not more than two alternate members to act in accordance with procedures specified in the city of Owosso zoning ordinance. The ZBA conducts its public meetings in city council chambers at city hall on the third Tuesday of each month at 9:30 a.m. as needed with notices of such meetings posted not less than 15 days prior. Meeting agendas are posted on the city website by 5:00 p.m. on the Friday preceding the meeting. The agendas and minutes are posted on the city website. ZBA members currently appointed are listed below.

Zoning board of appeals member	Term
Randy Horton, Chair	6-30-2020
Christopher Eveleth, Vice-chair, council rep	11-13-2018
Dan Jozwiak, Secretary	6-30-2018
Thomas Taylor, PC representative	6-30-2020
Kent Telesz	6-30-2019
Matthew Grubb, Alternate	6-30-2018
John Horvath, Alternate	6-30-2019

The ZBA met four times in 2017. Attendance is listed below.

2017 Zoning Board of Appeals Attendance

	Horton	Eveleth	Taylor	Telesz	Jozwiak	Horvath	Grubb
Jan	X	X		X	X	X	
Feb	No Meeting						
Mar	No Meeting						
Apr	No Meeting						
May	X	X	X	X			X
Jun	X		X			X	X
Jul	No Meeting						
Aug	No Meeting						
Sept	No Meeting						
Oct	No Meeting						
Nov	X		X	X	X	X	
Dec	No Meeting						

Variations (Review actions taken by the Zoning Board of Appeals)

Date	Petition Type	Request	Petitioner	ZBA Action
January	Dimensional Variance 1400 E. Monroe St Parcel # 050-010-011-001-00	Dimensional variance to reduce setback requirements	Tri-Mer Corp.	Approved
	Election of Officers	Chair: Randy Horton Vice-Chair: Christopher Eveleth Secretary: Daniel Jozwiak		Approved
May	Dimensional Variance 439 E. Exchange Parcel # 050-666-000-008-00	Dimensional variance to reduce setback requirements	Leo & Kay Reynolds	Approved
	Dimensional Variance 705 McMillan Parcel #050-010-008-002-00	Dimensional variance to reduce setback requirements	RWI Manufacturing	Approved

June	Variance 705 McMillan Parcel #050-010- 008-002-00	Variance for parking	RWI Manufacturing	Approved
	Ordinance Interpretation 731 W. Main Parcel # 050-660- 018-014-00	Enlarge a Class A Nonconforming site as required under Section 38- 504(2)f	Josh Jones, Owner of Owosso Auto Mall	Approved
	Request Ordinance Review	Refer Off-Street Parking ordinance, Sec. 380389 (E) for industrial parking to planning commission for review and re-evaluation		
November	Use Variance 1203 W. Main Parcel # 050-113- 014-001-00	Class A Zoning Designation	Trevor Langdon, Owner	Approved

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 Marihuana 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 Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana 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 Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana 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]

Comment [SKM1]: Changes as noted in 12-11-17 minutes – all changes are listed in **BOLD**

Secure transporter	[unlimited]
Provisioning center	[#4]
Safety compliance facility	[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 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.

Comment [SKM2]: City official

Comment [SKM3]: Application being created

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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 **I-1 Light Industrial** District(s);
- D. A marijuana secure transporter as authorized by the city of Owosso's police power authorizing ordinance in the **I-1 Light Industrial** District(s); and
- E. 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).

Comment [SKM4]: PC to determine if other districts will be allowed

Comment [SKM5]: PC review of draft stopped here. Further review and changes to be made at the next meeting on 1-22-18

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 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 special use permit based on a finding that the 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 [lesser #] acres, the subject property shall be a minimum of [lesser #] 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.
3. Indoor Production and Processing. In the [list the specific industrial district(s)], marijuana production shall be located entirely within one or more completely enclosed buildings. In the [list the specific industrial district(s)], marijuana 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 [list the specific industrial district(s)]:
 - a. A maximum of [#] square feet of building floor space may be used for all activities associated with marijuana production on the subject property.
 - 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 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 .
 - a. A provisioning center may not be located within [#] 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 [#] 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.

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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 [ordinance].
- 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 [ordinance] or any amendment thereto.
- C. Discontinuation of a state medical marijuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.