



# **MUNICIPAL GUIDE**

# MUNICIPAL GUIDE

## Table of Contents

- Medical Facility Licensing Questions..... 3**
  - What provisions in the Medical Marihuana Facilities Licensing Act (MMFLA) are relevant to municipalities?..... 3
  - Does a municipal ordinance have to opt in or opt out for medical facilities?..... 4
  - Can the Cannabis Regulatory Agency (Agency) tell a municipality what should be included in the municipality’s ordinance and zoning regulations? ..... 5
  - Does the Marihuana Facilities Licensing Act prohibit facilities from being within a certain distance to a school?..... 5
  - Can the municipality charge an application fee?..... 5
  - How does the medical marijuana facility licensing process work?..... 5
  - What type of licenses are available under the Medical Marihuana Facilities Licensing Act (MMFLA)? ..... 7
  - What are the touchpoints between the Cannabis Regulatory Agency (Agency) and municipalities during the medical marijuana facility licensing process?..... 7
  - How do municipalities confirm to the Cannabis Regulatory Agency (Agency) that an applicant is authorized to operate a medical facility in the municipality? ..... 9
  - Does an applicant have to notify the municipality when the applicant submits a facility license (Step 2) application?..... 9
  - Is a municipality notified when a facility license (Step 2) application is approved or denied? .10
  - When an applicant renews a license, does the applicant have to confirm to the Cannabis Regulatory Agency (Agency) that he or she still has municipal authorization to operate a facility within the municipality? .....10
- Adult-Use Establishment Licensing Questions .....12**
  - What provisions in the Michigan Regulation and Taxation of Marihuana Act (MRTMA) are relevant to municipalities? ..... 12
  - Does a municipal ordinance have to opt in or opt out for adult-use establishments? ..... 13
  - Can the Cannabis Regulatory Agency (Agency) tell a municipality what should be included in the municipality’s ordinance and zoning regulations? ..... 14
  - Does the Michigan Regulation and Taxation of Marihuana Act (MRTMA) prohibit adult-use establishments from being within a certain distance to a school? ..... 14
  - Can the municipality charge an application fee?..... 14
  - Does money collected from adult-use establishments taxes or fees go to municipalities? ..... 15
  - How does the adult-use licensing process work? ..... 15
  - What types of licenses are available under the Michigan Regulation and Taxation of Marihuana Act (MRTMA)? .....17

What are the touchpoints between the Cannabis Regulatory Agency (Agency) and municipalities during the adult-use licensing process?.....	18
How do municipalities notify the Cannabis Regulatory Agency (Agency) that an adult-use applicant or licensee is noncompliant with municipal ordinances and zoning regulations?.....	19
Does an applicant have to notify the municipality when they submit an adult-use establishment license (Step 2) application? .....	20
Is a municipality notified when an adult-use establishment license (Step 2) application is approved or denied?.....	20
When an adult-use licensee renews a license, do they have to confirm to the Cannabis Regulatory Agency that they are still compliant with municipal ordinances and zoning regulations?.....	20
<b>Enforcement Questions.....</b>	<b>21</b>
When does the Cannabis Regulatory Agency (Agency) inspect a proposed marijuana business (medical facility or adult-use establishment) and what is included in the inspection? .....	21
What role does the Bureau of Fires Services have in the Cannabis Regulatory Agency’s (Agency) inspection process?.....	22
What role does a municipality play in the inspection process?.....	22
Does a municipality need to provide an applicant for licensure with a certificate of occupancy? .....	22
After an applicant is granted a license, does the Cannabis Regulatory Agency conduct additional inspections? .....	22
If a municipality adopts an ordinance regarding medical facilities or adult-use establishments, should the municipality submit a copy of the ordinance to the Cannabis Regulatory Agency (Agency)?.....	23
Does the Cannabis Regulatory Agency (Agency) monitor licensees and enforce compliance with municipal and zoning ordinances? .....	23
If a municipality determines that a licensee has violated a municipal ordinance, should the municipality report the violation to the Cannabis Regulatory Agency? .....	23
Is a municipality responsible for enforcing licensee’s compliance with the Medical Marijuana Facilities Licensing Act, Michigan Regulation and Taxation of Marihuana Act, and the administrative rules?.....	23
If a municipality becomes aware of unlicensed or illegal marijuana operations, should the municipality report it to the Cannabis Regulatory Agency (Agency) or law enforcement? .....	23

# Medical Facility Licensing Questions

## What provisions in the Medical Marijuana Facilities Licensing Act (MMFLA) are relevant to municipalities?

[Section 205](#) of the [MMFLA](#) is relevant for municipalities that are considering allowing or restricting medical marijuana facilities' operations within the municipality.

Below are the relevant provisions in the [MMFLA](#) related to municipalities. The Cannabis Regulatory Agency (Agency) is unable to provide legal interpretation of statutory provisions that fall under municipal authority. If clarification on any of the provisions below that fall under municipal authority is needed, the Agency recommends that you consider consulting an attorney:

- Sec. 102.(q).: "Municipality' means a city, township, or village."
- Sec. 201.1: "Except as otherwise provided in this act, if a person has been granted a state operating license and is operating within the scope of the license, the licensee and its agents are not subject to any of the following for engaging in activities described in subsection (2):
  - (a) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department."
- Sec. 201.3: "Except as otherwise provided in this act, a person who owns or leases real property upon which a marijuana facility is located and who has no knowledge that the licensee violated this act is not subject to any of the following for owning, leasing, or permitting the operation of a marijuana facility on the real property:
  - d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department."
- Sec. 205.1: "A municipality may adopt an ordinance to authorize 1 or more types of marijuana facilities within its boundaries and to limit the number of each type of marijuana facility. A municipality may adopt other ordinances relating to marijuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marijuana or interfering or conflicting with this act or rules for licensing marijuana facilities. A municipality that adopts an ordinance under this subsection that authorizes a marijuana facility shall provide the department with all of the following on a form prescribed and provided by the department:
  - (a) An attestation that the municipality has adopted an ordinance under this subsection that authorizes the marijuana facility.
  - (b) A description of any zoning regulations that apply to the proposed marijuana facility within the municipality
  - (c) The signature of the clerk of the municipality or his or her designee.
  - (d) Any other information required by the department."
- Sec. 205.2: "A municipal ordinance may establish an annual, nonrefundable fee of not more than \$5,000.00 to help defray administrative and enforcement costs associated with the operation of a marijuana facility in the municipality."

- Sec. 205.3: “The department may require a municipality to provide the following information to the department on a form prescribed and provided by the department regarding a licensee who submits an application for license renewal:
  - (a) Information that the board declares necessary to determine whether the licensee’s license should be renewed.
  - (b) A description of a violation of an ordinance or a zoning regulation adopted under the subsection (1) committed by the licensee, but only if the violation relates to activities licensed under this act and rules or the Michigan Medical Marihuana Act.
  - (c) Whether there has been a change to an ordinance or a zoning regulation adopted under subsection (1) since the license was issued to the licensee and a description of the change.”
- Sec. 205.4: “Information a municipality obtains from an applicant under this section is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.246. Except as otherwise provided in this subsection, information a municipality provides to the department under this section is subject to disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.”
- Sec. 401.1: “Beginning December 15, 2017, a person may apply to the board for state operating licenses in the categories of class A, B, C grower; processor; provisioning center; secure transporter; and safety compliance facility as provided in this act. The application shall be made under oath on a form provided by the board and shall contain information as prescribed by the board, including, but not limited to, all of the following:
  - (j) A paper copy or electronic posting website reference for the ordinance or zoning restriction that the municipality adopted to authorize or restrict operating 1 or more marihuana facilities in the municipality.
  - (k) A copy of the notice informing the municipality by registered mail that the applicant has applied for a license under this act. The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicant submits the application for a license to the board.”
- Sec. 401.6: “By 10 days after the date the applicant submits an application to the board, the applicant shall notify the municipality by registered mail that it has applied for a license under this act.”
- Sec. 503.1: “A secure transporter license authorizes the license to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver. If a secure transporter has its primary place of business in a municipality that has adopted an ordinance under section 205 authorizing that marihuana facility, the secure transporter may travel through any municipality.”

## **Does a municipal ordinance have to opt in or opt out for medical facilities?**

If a municipality intends to authorize the operation of medical marijuana facilities within the municipality, the municipality must adopt an ordinance that specifically authorizes the operation

of medical marijuana facilities within the municipality. If no ordinance is in place, the Cannabis Regulatory Agency will not issue a license to a facility in that municipality.

## **Can the Cannabis Regulatory Agency (Agency) tell a municipality what should be included in the municipality's ordinance and zoning regulations?**

The Agency does not provide legal advice or interpretation regarding issues that fall under municipal authority. Please review [Section 205](#) of the [Medical Marihuana Facilities Licensing Act](#) for information about municipal authority regarding ordinance and zoning regulations.

If you still have questions after your review, you may wish to consider consulting with an attorney.

## **Does the Marihuana Facilities Licensing Act prohibit facilities from being within a certain distance to a school?**

No, but the municipality may have ordinance or zoning requirements that require a facility be a certain distance from the school. For more information please review [Section 205](#) of the [Medical Marihuana Facilities Licensing Act](#) or contact the municipality where your facility will operate.

## **Can the municipality charge an application fee?**

Yes, pursuant to [Section 205.2](#) of the [Medical Marihuana Facilities Licensing Act \(MMFLA\)](#):

“A municipal ordinance may establish an annual, nonrefundable fee of not more than \$5,000.00 to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.”

## **How does the medical marijuana facility licensing process work?**

The medical marijuana facility licensing process is a two process step:

### **Prequalification (Step 1) Application**

The first step in the process is prequalification. During prequalification, the Cannabis Regulatory Agency (Agency) vets the entities and individuals who are applicants for the proposed medical marijuana facility by conducting criminal and financial background checks to verify their eligibility for licensure.

If the applicant is denied for prequalification, the Agency sends the applicant a Notice of Denial letter advising the applicant the prequalification application is denied. Denied applicants have 21 days to request a public investigative hearing. At the hearing, the applicant has an opportunity to demonstrate they are eligible for licensure. After the public investigative hearing, the

Executive Director of the Agency either affirms or reverses the Licensing Division's decision to deny the application. If the Executive Director affirms the decision to deny the application, the applicant has the ability to pursue additional legal action in the courts to reverse the decision.

If the applicant is approved for prequalification, the Agency sends the applicant a Notice of Determination letter advising the applicant that prequalification status has been granted and is approved for two years.

## **Facility License (Step 2) Application**

The second step in the medical marijuana facilities licensing process is the facility license application. During the facility license application process, the Agency reviews the facility license application documents and requests that the Agency Enforcement Division (Field Operations) and the Bureau of Fire Services (BFS), if applicable, inspect the facility.

Facility inspections are conducted after all facility license application deficiencies have been resolved. The Agency will not perform building inspections if [Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality](#) has not been completed by the municipality.

Please note that a facility license application may be denied. Some reasons for denial include, but are not limited to, the applicant's failure to resolve application deficiencies or lack of municipal authorization to operate.

If a facility license application is denied, the Agency sends the applicant a Notice of Denial letter advising the applicant the facility license application is denied. Denied applicants have 21 days to request a public investigative hearing. At the hearing, the applicant has an opportunity to demonstrate they are eligible for licensure. After the public investigative hearing, the Executive Director of the Agency either affirms or reverses the Licensing Division's decision to deny the application. If the Executive Director affirms the decision to deny the application, the applicant has the ability to pursue additional legal action in the courts to reverse the decision.

If the Agency approves the facility license application, a state license will be issued to the applicant after the regulatory assessment fee is paid.

## **Renewal Application**

A medical marijuana facility license is issued for a one-year period from the date of the licensee's original licensure approval. If a licensee decides to renew their license, they will need to submit a renewal application.

During the renewal process, the licensee must submit the licensure fee payment and a renewal application prior to the licensee's expiration date. The Agency reviews the renewal application to ensure the facility is compliant with tax obligations, municipal ordinances, and the Agency's [rules and regulations](#).

If the Agency approves the renewal application, the expiration date of the state license is extended by one year.

## What type of licenses are available under the Medical Marihuana Facilities Licensing Act (MMFLA)?

The following licenses types are available under the [MMFLA](#) and associated [administrative rules](#):

- Class A Grower (may grow up to 500 marijuana plants)
- Class B Grower (may grow up to 1,000 marijuana plants)
- Class C Grower (may grow up to 1,500 marijuana plants)
- Processor
- Provisioning Center
- Safety Compliance Facility
- Secure Transporter

## What are the touchpoints between the Cannabis Regulatory Agency (Agency) and municipalities during the medical marijuana facility licensing process?

The following touchpoints exist between the Agency and municipalities during the medical marijuana facility licensing process:

### **Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality**

The medical marijuana facility license application (Step 2) requires that [Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality](#) be completed by the municipal clerk or designee of the municipality in which the proposed facility will be located.

After signing the attestation in the presence of a notary, the municipal clerk or designee should return the form to the applicant so the applicant can submit the attestation with their facility license application.

By signing this attestation, the municipality is attesting the municipality has adopted an ordinance authorizing the operation of medical marijuana facilities within the municipality and the proposed facility is in compliance with all municipal regulations and ordinances. The municipality is also confirming that they will report any changes to municipal ordinances adopted under [Section 205](#) of the [Medical Marihuana Facilities Act \(MMFLA\)](#) and will report any violations of municipal regulations or ordinances to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

If the municipality signs this attestation, the Agency will consider the applicant compliant with all municipal regulations and will approve the applicant for a medical marijuana facility license if all licensing requirements have been met.

If the municipality does not sign this attestation, the Agency will not request or perform the required inspections to determine if the applicant has met all licensing requirements.

### **Certified Mail Receipt with Letter Sent to Municipality**

[Section 401.1 \(k\)](#) of the [MMFLA](#) requires that an applicant send the Agency a copy of the notice informing the municipality by registered mail that the applicant has applied for a license under



the [MMFLA](#). The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicant submits the application for a license...”

The [medical marijuana facility license application checklist](#) states that the Agency requires a copy of the certified mail receipt along with the letter that was sent to the municipality notifying the municipality that the applicant’s facility application was submitted to the Agency.

[Page 9 of the facility license application](#), under Part 2, requires the facility’s municipality information. This section also asks for information on the certified mail receipt – if the notice was sent and the date the notice was sent to the municipality.

### **Notification of State Operating License Determination – Granted**

This determination letter is sent to the municipality after the facility license application has been approved, the regulatory assessment fee has been paid, and the license has been issued. This letter is sent by email to the email address provided in the “Clerk (or designee) Email Address” field of Attestation I: Part 1. The subject line of this email will be “Notification of State Operating License Determination – Entity Name” (e.g., Notification of State Operating License Determination – Michigan Marijuana LLC). The municipality determination letter of approval will be provided as an attachment.

### **Notification of State Operating License Determination – Denied**

This determination letter is sent to the municipality after a facility license application has been denied. This letter is sent by email to the email address provided in the “Clerk (or designee) Email Address” field of Attestation I: Part 1. The subject line of this email will be “Notification of State Operating License Determination – Entity Name” (e.g., Notification of State Operating License Determination – Michigan Marijuana LLC). The municipality determination letter of denial will be provided as an attachment.

Please note that an application is not officially denied unless an applicant fails to request a public investigative hearing or the applicant has exhausted all administrative remedies and legal appeals for the denial. Therefore, a municipality will not receive this letter until an applicant is officially denied.

### **Attestation I – Renewal**

The medical marijuana facility license renewal application requires that [Attestation I – Renewal](#) be completed by the municipal clerk or designee of the municipality in which the licensee is operating. After signing the attestation in the presence of a notary, the municipal clerk or designee should return the form to the licensee so it may be submitted with their license renewal application.

Within the attestation, the municipal clerk or designee must indicate if the licensee has or has not violated a municipal ordinance or zoning regulation pursuant to [Section 205](#) of the [MMFLA](#). If a violation has occurred, the municipal clerk or designee should provide an attachment along with the attestation describing the violation.

The municipal clerk or designee must also indicate if there has been a change to a municipal ordinance or zoning regulation adopted under [Section 205](#) of the [MMFLA](#). If a change has occurred, the municipal clerk or designee should provide an attachment along with the attestation describing the change.

If the municipality signs the this attestation, the Agency will consider the licensee compliant with all municipal regulations and will renew the licensee’s medical marijuana facility license if all licensing requirements have been met.

### **Renewal Approved**

The municipality is included as a party on the correspondence notifying the licensee the license has been renewed.

### **Violations of Municipal Ordinances or Zoning Regulations**

The municipality should report any violations of municipal ordinances or zoning regulations by licensees located in the municipality to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

### **Changes to Municipal Ordinances or Zoning Regulations**

The municipality should report any changes to municipal ordinances or zoning regulations related to medical marijuana facilities to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

## **How do municipalities confirm to the Cannabis Regulatory Agency (Agency) that an applicant is authorized to operate a medical facility in the municipality?**

Municipalities confirm to the Agency that an applicant is authorized to operate a medical marijuana facility in the municipality by completing [Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality](#).

If confirmation of municipal compliance is received, the Agency will approve the applicant for a medical marijuana facility license if all licensing requirements have been met.

## **Does an applicant have to notify the municipality when the applicant submits a facility license (Step 2) application?**

Yes. [Section 401.1 \(k\)](#) of the [Medical Marijuana Facilities Act \(MMFLA\)](#) requires that an applicant send the Cannabis Regulatory Agency (Agency) a copy of the notice informing the municipality by registered mail that the applicant has applied for a license under the [MMFLA](#). The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicants submits the application for a license...”

The [medical marijuana facility license application checklist](#) states that the Agency requires a copy of the certified mail receipt along with the letter that was sent to the municipality notifying the municipality that the applicant’s facility application was submitted to Agency.

[Page 9 of the facility license application](#), under Part 2, requires the facility’s municipality information. This section also asks for information on the certified mail receipt – if the notice was sent and the date the notice was sent to the municipality.

## **Is a municipality notified when a facility license (Step 2) application is approved or denied?**

Yes. The Cannabis Regulatory Agency will notify the municipality after a facility license application determination has been made. See below for a description of the two letters.

### **Notification of State Operating License Determination – Granted:**

This determination letter is sent to the municipality after the facility license application has been approved, the regulatory assessment fee has been paid, and the license has been issued. This letter is sent by email to the email address provided in the “Clerk (or designee) Email Address” field of [Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality](#). The subject line of this email will be “Notification of State Operating License Determination – Entity Name” (e.g., Notification of State Operating License Determination – Michigan Marijuana LLC). The municipality determination letter of approval will be provided as an attachment.

### **Notification of State Operating License Determination – Denied:**

This determination letter is sent to the municipality after the facility license application has been denied. This letter is sent by email to the email address provided in the “Clerk (or designee) Email Address” field of [Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality](#). The subject line of this email will be “Notification of State Operating License Determination – Entity Name” (e.g., Notification of State Operating License Determination – Michigan Marijuana LLC). The municipality determination letter of denial will be provided as an attachment.

Please note that an application is not officially denied unless an applicant fails to request a public investigative hearing or the applicant has exhausted all administrative remedies and legal appeals for the denial. Therefore, a municipality will not receive this letter until an applicant is officially denied.

## **When an applicant renews a license, does the applicant have to confirm to the Cannabis Regulatory Agency (Agency) that he or she still has municipal authorization to operate a facility within the municipality?**

Yes. The municipality is required to sign [Attestation I – Renewal](#) when an applicant renews their medical marijuana facility license. If the municipality signs this attestation, the Agency will consider the licensee compliant with all municipal regulations and will renew the licensee’s medical marijuana facility license.

By signing this attestation, the municipality is attesting that they are in compliance with the municipal ordinance requirement of [Section 205](#) of the [MMFLA](#). The municipality is also confirming that they are reporting changes to municipal ordinances adopted under [Section 205](#) of the [MMFLA](#) and have reported any violations of municipal regulations or ordinances to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

After signing the attestation in the presence of a notary, the municipal clerk or designee should return the form to the applicant so the applicant can submit the attestation with the renewal application.

# Adult-Use Establishment Licensing Questions

## What provisions in the Michigan Regulation and Taxation of Marihuana Act (MRTMA) are relevant to municipalities?

[Section 6](#) of the [MRTMA](#) is relevant for municipalities that are considering allowing or restricting adult-use marijuana establishments' operations within the municipality.

Below are the relevant provisions in the [MRTMA](#) related to municipalities. The Cannabis Regulatory Agency (Agency) is unable to provide legal interpretation of statutory provisions that fall under municipal authority. If clarification on any of the provisions below that fall under municipal authority is needed, the Agency recommends that you consider consulting an attorney:

- Sec. 3.(q).: "Municipality' means a city, village, or township."
- Sec. 6.1.: "Except as provided in section 4, a municipality may completely prohibit or limit the number of marihuana establishments within its boundaries."
- Sec. 6.2.: "A municipality may adopt other ordinances that are not unreasonably impracticable and do not conflict with this act or any rule promulgated pursuant to this act and that:
  - (b) establish reasonable restrictions on public signs related to marihuana establishments;
  - (c) regulate the time, place, and manner of operation of marihuana establishments and of the production, manufacture, sale, or display of marihuana accessories;
  - (d) authorize the sale of marihuana for consumption in designated areas that are not accessible to persons under 21 years of age, or at special events in limited areas and for a limited time; and
  - (e) designate a violation of the ordinance and provide for a penalty for that violation by a marihuana establishment, provided that such violation is a civil infraction and such penalty is a civil fine of not more than \$500."
- Sec. 6.3.: "A municipality may adopt an ordinance requiring a marihuana establishment with a physical location within the municipality to obtain a municipal license, but may not impose qualifications for licensure that conflict with this act or rules promulgated by the department."
- Sec. 6.4.: "A municipality may charge an annual fee of not more than \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marihuana establishment in the municipality."
- Sec. 6.5.: "A municipality may not adopt an ordinance that restricts the transportation of marihuana through the municipality or prohibits a marihuana grower, a marihuana processor, and a marihuana retailer from operating within a single facility or from operation at a location shared with a marihuana facility operating pursuant to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801."

Sec. 9.1.: "Each application for a state license must be submitted to the department. Upon receipt of a complete application and application fee, the department shall forward a copy of the application to the municipality in which the marihuana establishment is to be located, determine whether the applicant and the premises qualify for the state license and comply with this act,

and issue the appropriate state license or send the applicant a notice of rejection setting forth specific reasons why the department did not approve the state license application within 90 days. (Due to the FOIA provision in [Section 9\(7\)](#) of the the [MRTMA](#), application records are not disclosed [*“7. Information obtained from an applicant related to licensure under this act is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.”*]).

- Sec. 9.3.: “Except as otherwise provided in this section, the department shall approve a state license application and issue a state license if:
  - (b) the municipality in which the proposed marijuana establishment will be located does not notify the department that the proposed marijuana establishment is not in compliance with an ordinance consistent with section 6 of this act and in effect at the time of application;
  - (c) the property where the proposed marijuana establishment is to be located is not within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement;
- Sec. 9.4.: “If a municipality limits the number of marijuana establishments that may be licensed in the municipality pursuant to section 6 of this act and that limit prevents the department from issuing a state license to all applicants who meet the requirements of subsection 3 of this section, the municipality shall decide among competing applications by a competitive process intended to select applicants who are best suited to operate in compliance with this act within the municipality.”
- Sec. 14.3.: “The department shall expend money in the [marijuana regulation] fund first for the implementation, administration, and enforcement of this act, and second, until 2022 or for at least two years, to provide \$20 million annually to one or more clinical trials that are approved by the United States food and drug administration and sponsored by a non-profit organization or researcher within an academic institution researching the efficacy of marijuana in treating the medical conditions of United States armed services veterans and preventing veteran suicide. Upon appropriation, unexpended balances must be allocated as follows:
  - (a) 15% to municipalities in which a marijuana retail store or a marijuana microbusiness is located, allocated in proportion to the number of marijuana retail stores and marijuana microbusinesses within the municipality;

## **Does a municipal ordinance have to opt in or opt out for adult-use establishments?**

To avoid an adult-use establishment license from being issued within the municipality, a municipality must opt out of the [Michigan Regulation and Taxation of Marijuana Act \(MRTMA\)](#) by passing a municipal ordinance that completely prohibits adult-use marijuana establishments.

The municipality is also able to opt in to the [MRTMA](#) by passing a municipal ordinance that authorizes the operation of marijuana establishments within the municipality. An authorizing ordinance may also limit the number of marijuana establishments that operate within the municipality.

For further information on municipal ordinances, refer to [Section 6](#) of the [MRTMA](#).

## **Can the Cannabis Regulatory Agency (Agency) tell a municipality what should be included in the municipality’s ordinance and zoning regulations?**

The Agency does not provide legal advice or interpretation regarding issues that fall under municipal authority. Please review [Section 6](#) of the [Michigan Regulation and Taxation of Marijuana Act](#) for information about municipal authority over adult-use marijuana establishments.

If you still have questions after your review, you may wish to consider consulting with an attorney.

## **Does the Michigan Regulation and Taxation of Marihuana Act (MRTMA) prohibit adult-use establishments from being within a certain distance to a school?**

Yes. Pursuant to [Section 9.3.\(c\)](#) of the [MRTMA](#), the property where the proposed marihuana establishment will be located cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement.

Please note that a municipality may exercise its authority to the reduce the distance via ordinance in two ways:

- 1) Define the way in the which the distance is measured (e.g. door to door, along streets),  
OR
- 2) Reduce the distance the requirement outright (e.g. 500 feet instead of 1,000).

If a municipality has not adopted an ordinance reducing the distance requirement, the Cannabis Regulatory Agency (Agency) will not issue a license for an adult-use establishment that is within 1,000 feet of the school. The Agency will measure the 1,000 feet perimeter as the direct distance from property line to property line when making this determination.

## **Can the municipality charge an application fee?**

Yes. Pursuant to [Section 6.4.](#) of the [Michigan Regulation and Taxation of Marihuana Act](#):

“A municipality may charge an annual fee of not more than \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marihuana establishment in the municipality.”

## Does money collected from adult-use establishments taxes or fees go to municipalities?

Yes, a portion does but not immediately. Money in the fund is first used to repay the initial appropriation from the general fund used to implement the [Michigan Regulation and Taxation of Marihuana Act \(MRTMA\)](#). Next, \$20M per year for at least 2 years is used for Food and Drug Administration (FDA) approved clinical trials. After that money is distributed to municipalities, counties, the school aid fund, and the transportation fund. Please see the relevant [MRTMA](#) provision below.

Pursuant to [Section 14](#) of the [MRTMA](#):

1. The marihuana regulation fund is created in the state treasury. The department of treasury shall deposit all money collected under section 13 of this act and the department shall deposit all fees collected in the fund. The state treasurer shall direct the investment of the fund and shall credit the fund interest and earnings from fund investments. The department shall administer the fund for auditing purposes. Money in the fund shall not lapse to the general fund.

2. Funds for the initial activities of the department to implement this act shall be appropriated from the general fund. The department shall repay any amount appropriated under this subsection from proceeds in the fund.

3. The department shall expend money in the fund first for the implementation, administration, and enforcement of this act, and second, until 2022 or for at least two years, to provide \$20 million annually to one or more clinical trials that are approved by the United States food and drug administration and sponsored by a non-profit organization or researcher within an academic institution researching the efficacy of marihuana in treating the medical conditions of United States armed services veterans and preventing veteran suicide. Upon appropriation, unexpended balances must be allocated as follows:

**(a) 15% to municipalities in which a marihuana retail store or a marihuana microbusiness is located, allocated in proportion to the number of marihuana retail stores and marihuana microbusinesses within the municipality;**

(b) 15% to counties in which a marihuana retail store or a marihuana microbusiness is located, allocated in proportion to the number of marihuana retail stores and marihuana microbusinesses within the county;

(c) 35% to the school aid fund to be used for K-12 education; and

(d) 35% to the Michigan transportation fund to be used for the repair and maintenance of roads and bridges.

## How does the adult-use licensing process work?

The adult-use establishment licensing process is divided into two steps: the prequalification application and the establishment license application.



## **Prequalification (Step 1) Application**

The first step in the process is prequalification. During prequalification, the Cannabis Regulatory Agency (Agency) vets the entities and individuals who are applicants for the proposed adult-use marijuana establishment by conducting criminal and financial background checks to verify their eligibility for licensure.

If the applicant is denied prequalification, the Agency sends the applicant a Notice of Denial letter advising the applicant the prequalification application is denied. Denied applicants have 21 days to request a public investigative hearing. At the hearing, the applicant has an opportunity to demonstrate they are eligible for licensure. After the public investigative hearing, the Executive Director of the Agency either affirms or reverses the Licensing Division's decision to deny the application. If the Executive Director affirms the decision to deny the application, the applicant has the ability to pursue additional legal action in the courts to reverse the decision.

If the applicant is approved for prequalification, the Agency sends the applicant a Notice of Determination letter advising the applicant that prequalification status has been granted and is approved for two years.

## **Establishment License (Step 2) Application**

The second step in the adult-use establishment licensing process is the establishment license application. During the establishment license application process, the Agency reviews the establishment license application documents and requests that the Agency Enforcement Division (Field Operations) and the Bureau of Fire Services (BFS), if applicable, inspect the establishment.

Establishment inspections are conducted after all establishment license application deficiencies have been resolved.

Please note that an establishment license application may be denied. Some reasons for denial include, but are not limited to, the applicant's failure to resolve application deficiencies or violations of municipal ordinances.

If an establishment license application is denied, the Agency sends the applicant a Notice of Denial letter advising the applicant the establishment license application is denied. Denied applicants have 21 days to request a public investigative hearing. At the hearing, the applicant has an opportunity to demonstrate they are eligible for licensure. After the public investigative hearing, the Executive Director of the Agency either affirms or reverses the Licensing Division's decision to deny the application. If the Executive Director affirms the decision to deny the application, the applicant has the ability to pursue additional legal action in the courts to reverse the decision.

If the Agency approves the establishment license application, a state license will be issued to the applicant after the initial licensure fee is paid.

## **Renewal**

An adult-use license is issued for a one-year period from the date of the licensee's original licensure approval. If a licensee decides to renew their license, they must submit a renewal application.

During the renewal process, the licensee must submit the licensure fee payment and a renewal application prior to the licensee's expiration date. The Agency reviews the renewal application to

ensure the establishment is compliant with tax obligations, municipal ordinances, and the Agency [rules and regulations](#).

If the Agency approves the renewal application, the expiration date of the state license is extended by one year.

Please note that a license renewal application may be denied. Some reasons for denial include, but are not limited to, the licensee's failure to resolve application deficiencies or violations of municipal ordinances.

If a license renewal application is denied, the Agency sends the licensee a Notice of Nonrenewal letter advising the licensee the establishment license renewal application is denied. A licensee issued a Notice of Nonrenewal has 21 days to request a contested case hearing. At the hearing, the licensee has an opportunity to demonstrate they are eligible to renew the license. After the contested case hearing, the Executive Director of the Agency either affirms or reverses the Licensing Division's decision to deny the renewal application. If the Executive Director affirms the decision to deny the renewal application, the licensee has the ability to pursue additional legal action in the courts to reverse the decision.

If the Agency approves the renewal of the establishment license, the state license will be renewed for a one-year period.

## **What types of licenses are available under the Michigan Regulation and Taxation of Marijuana Act (MRTMA)?**

The following license types are available under the [MRTMA](#) and associated [administrative rules](#):

- Class A Marijuana Grower (may grow up to 100 plants)
- Class B Marijuana Grower (may grow up to 500 plants)
- Class C Marijuana Grower (may grow up to 2,000 plants)
- Excess Marijuana Grower (may grow up to 2,000 plants, depending on the adult-use licensee's medical marijuana plant allowance)
- Marijuana Microbusiness (may grow up to 150 plants, process, and retail)
- Class A Marijuana Microbusiness (may grow up to 300 plants, process, and retail)
- Marijuana Processor
- Marijuana Retailer
- Marijuana Safety Compliance Facility
- Marijuana Secure Transporter
- Designed Consumption Establishment
- Marijuana Event Organizer
- Temporary Marijuana Event
- Marijuana Educational Research

## What are the touchpoints between the Cannabis Regulatory Agency (Agency) and municipalities during the adult-use licensing process?

The following touchpoints exist between the Agency and municipalities during the adult-use licensing process:

### **Municipality Notification Letter**

After receiving a complete establishment license application, the Agency sends a Municipality Notification letter by email to the municipal contact's email address provided by the applicant.

This email will come from [CRA-AdultUseLicensing@michigan.gov](mailto:CRA-AdultUseLicensing@michigan.gov). The subject line of this email will be "Municipality Notification - Applicant Name - Application Number" (e.g., *Municipality Notification - Michigan Marijuana, LLC - AU-RA-000099*). If the applicant is not in compliance with an ordinance consistent with section 6 of the MRTMA, the municipality should immediately complete and return the Municipal Notification of Noncompliance form provided with the notification.

The Agency may follow up with the municipality to confirm the municipality notification letter was received.

Failure of the municipality to complete and return the form will not preclude the Agency from issuing the license.

### **Municipality Determination Letter**

The municipality determination letter is sent to the municipality after the establishment license application determination has been made.

The municipality determination letter is sent by email to the municipal contact's email address provided by the applicant. This email will come from [CRA-AdultUseLicensing@michigan.gov](mailto:CRA-AdultUseLicensing@michigan.gov). The subject line of this email will be "Municipality Determination Letter - Applicant Name - Application Number" (e.g., *Municipality Determination Letter - Michigan Marijuana, LLC - AU-RA-000099*). The municipality determination letter will be provided as an attachment and will indicate the applicant name, application number, address of the establishment, and whether the license has been approved or the application has been denied.

If the establishment license application has been approved, this letter is sent after the initial licensure fee has been paid and the license has been issued.

If the establishment license application has been denied, this letter is sent if the applicant did not request a public investigative hearing within 21 days of the denial determination or if the result of a public investigative hearing remains a denial determination.

Please note that an application is not officially denied unless an applicant fails to request a public investigative hearing or the applicant has exhausted all administrative remedies and legal appeals for the denial. Therefore, a municipality will not receive this letter until an applicant is officially denied.

## **Municipality Renewal Notification Letter**

After receiving an establishment license renewal application, the Agency sends a Municipality Notification by email to the municipal contact's email address provided by the licensee.

This email will come from [CRA-AdultUseRenewals@michigan.gov](mailto:CRA-AdultUseRenewals@michigan.gov). The subject line of this email will be "Municipality Notification - Licensee Name - License Number" (e.g., *Municipality Notification - Michigan Marijuana, LLC - AU-R-000099*). If the licensee is not in compliance with an ordinance consistent with section 6 of the MRTMA, the municipality should immediately complete and return the Municipal Notification of Noncompliance form provided with the notification.

The Agency may follow up with the municipality to confirm the municipality notification letter was received if no written confirmation of receipt is received.

Failure of the municipality to complete and return the form will not preclude the Agency from renewing the license.

## **Renewal Approved**

The municipality is included as a party on the correspondence notifying the licensee the license has been renewed.

## **Violations of Municipal Ordinances or Zoning Regulations**

The municipality should report any violations of municipal ordinances or zoning regulations by licensees located in the municipality to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

## **Changes to Municipal Ordinances or Zoning Regulations**

The municipality should report any changes to municipal ordinances or zoning regulations related to adult-use establishments to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

## **How do municipalities notify the Cannabis Regulatory Agency (Agency) that an adult-use applicant or licensee is noncompliant with municipal ordinances and zoning regulations?**

The municipality should report any violations of municipal ordinances or zoning regulations by licensees located in the municipality to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

Municipalities can also notify the Agency that an adult-use applicant is not in compliance with municipal ordinances and zoning regulations by completing the form provided in the municipality notification letter. For licensed establishments, municipalities can utilize the form sent in the municipality renewal notification to notify the Agency of any violations of municipal ordinances or zoning regulations.

## **Does an applicant have to notify the municipality when they submit an adult-use establishment license (Step 2) application?**

No, the applicant is not required to notify the municipality upon submitting an adult-use establishment license application. However, the Cannabis Regulatory Agency will send a municipality notification letter by email to the municipal contact's email address provided by the applicant seeking to ascertain if the municipality has adopted an ordinance prohibiting marijuana establishments or if the proposed establishment is in violation of any local ordinances, including zoning.

## **Is a municipality notified when an adult-use establishment license (Step 2) application is approved or denied?**

Yes. The Cannabis Regulatory Agency will notify the municipality after an establishment license application determination has been made.

This letter will be sent by email to the municipal contact's email address provided by the applicant. The subject line of this email will be "Municipality Determination Letter - Applicant Name - Application Number" (e.g., *Municipality Determination Letter - Michigan Marijuana, LLC - AU-RA-001234*). The municipality determination letter will be provided as an attachment and will indicate the applicant name, application number, address of the establishment, and whether the license has been granted or the application has been denied.

## **When an adult-use licensee renews a license, do they have to confirm to the Cannabis Regulatory Agency that they are still compliant with municipal ordinances and zoning regulations?**

When renewing an adult-use establishment license, the Cannabis Regulatory Agency will send a letter by email to the municipal contact's email address provided by the licensee.

This email will come from [CRA-AdultUseRenewals@michigan.gov](mailto:CRA-AdultUseRenewals@michigan.gov). The subject line of this email will be "Municipality Notification - Licensee Name - License Number" (e.g., *Municipality Notification - Michigan Marijuana, LLC - AU-R-000099*). If the licensee is not in compliance with an ordinance consistent with section 6 of the MRTMA, the municipality should immediately complete and return the Municipal Notification of Noncompliance form provided with the notification.

# Enforcement Questions

## When does the Cannabis Regulatory Agency (Agency) inspect a proposed marijuana business (medical facility or adult-use establishment) and what is included in the inspection?

The Agency conducts several types of inspections of marijuana businesses:

### Pre-Licensure

This inspection occurs after a marijuana business has applied to the Agency for a marijuana license and is in the Step 2 application phase. During this time, the Agency inspectors will communicate with the applicant and conduct an inspection of basic building requirements that need to be met in order to pass the required Pre-Licensure inspection. Some of these requirements include security cameras, partitioning from other businesses in certain cases, and a valid Certificate of Occupancy (or its equivalent) from the local municipality.

Should a business not pass the Pre-Licensure inspection, the Agency inspectors will work with the applicant to bring them into compliance and a passing inspection or advise the Licensing Division that the applicant is unable to pass this requirement. An inspection report is always generated and provided to the applicant after each inspection.

### 30-Day Post-Licensure

This inspection occurs approximately 30-calendar days after a licensee receives their marijuana license from the Agency. The focus is to bring the licensee into compliance with several functions that can only occur when a business has the license. This includes, but is not limited to, tagging of marijuana products with the statewide monitoring system (Metrc), product labelling compliance, employee suitability for employment and employee training, product storage compliance, adherence to the Executive Orders related to COVID, plant count limits, and more.

The intent of this inspection is to highlight the multitude of rule requirements a new licensee must adhere to in order to remain in compliance with state statutes and rules. Any deficiencies are noted, and a re-inspection will be scheduled until the licensee passes. An inspection report is always generated and provided to the licensee after each inspection.

### Semi-Annual

This inspection occurs approximately every six months and is similar to the 30-Day Post-Licensure inspection in detail. This inspection is focused on ensuring the licensee maintains compliance with state statutes and rules. Any deficiencies are noted, and a re-inspection will be scheduled until the licensee passes. An inspection report is always generated and provided to the licensee after each inspection.

### Other

This inspection occurs whenever a business reports a need for any change or modification they want to make to the physical structure or equipment at the business. The Agency also uses this inspection type at our discretion to conduct an inspection at a time of our choosing. Any

deficiencies are noted, and a re-inspection will be scheduled until the licensee passes. An inspection report is always generated and provided to the licensee after each inspection.

## **What role does the Bureau of Fires Services have in the Cannabis Regulatory Agency’s (Agency) inspection process?**

The Bureau of Fire Services (BFS) conducts Pre-Licensure, Semi-Annual, and Other inspections just like the Agency. The BFS utilizes the NFPA 1 of 2018 fire code as a foundation of their inspections. Prior to some inspections, the BFS perform plan reviews of grow, microbusiness, and processor license types due to the fire risks associated with growing and processing marijuana, along with the possible presence of a multitude of chemicals.

Like the Agency, the BFS inspectors and plan reviewers communicate with marijuana business applicants and licensees and perform inspections of the marijuana businesses in an effort to bring them into compliance with the NFPA 1 of 2018. Any deficiencies are noted, and a re-inspection will be scheduled until the licensee passes, or the BFS will advise the Agency that the business is out of compliance.

## **What role does a municipality play in the inspection process?**

The local municipality’s main role in state inspections is to issue a Certificate of Occupancy (or its equivalent) for the proposed marijuana business. Municipality personnel are always welcome to join the Cannabis Regulatory Agency and the Bureau of Fire Services inspections and they are always welcome to share any issues, concerns, or business deficiencies to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

## **Does a municipality need to provide an applicant for licensure with a certificate of occupancy?**

Yes, or its equivalent. This document is required for a proposed marijuana business to pass Pre-Licensure inspections and receive a state license.

## **After an applicant is granted a license, does the Cannabis Regulatory Agency conduct additional inspections?**

Yes. Please see the answer to the FAQ “When does the Cannabis Regulatory Agency (Agency) inspect a facility or establishment and what is included in the inspection?”

**If a municipality adopts an ordinance regarding medical facilities or adult-use establishments, should the municipality submit a copy of the ordinance to the Cannabis Regulatory Agency (Agency)?**

Yes. The Agency frequently updates documents located at [www.michigan.gov/CRA](http://www.michigan.gov/CRA) that inform the public what municipalities do, or do not, permit regarding marijuana businesses.

**Does the Cannabis Regulatory Agency (Agency) monitor licensees and enforce compliance with municipal and zoning ordinances?**

The Agency does not enforce local municipal zoning ordinances. The Agency will, however, receive any report of non-compliance or judgment from local municipalities/courts and that information may have state licensing implications. Feel free to send this information to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

**If a municipality determines that a licensee has violated a municipal ordinance, should the municipality report the violation to the Cannabis Regulatory Agency?**

Yes. Please report the violations to [CRA-Enforcement@michigan.gov](mailto:CRA-Enforcement@michigan.gov).

**Is a municipality responsible for enforcing licensee's compliance with the Medical Marijuana Facilities Licensing Act, Michigan Regulation and Taxation of Marijuana Act, and the administrative rules?**

Municipalities can enforce state statutes, the jurisdiction of creating and enforcing the [administrative rules](#) is incumbent on the Cannabis Regulatory Agency.

**If a municipality becomes aware of unlicensed or illegal marijuana operations, should the municipality report it to the Cannabis Regulatory Agency (Agency) or law enforcement?**

The municipality is always free to inform state and local law enforcement. If they inform the Agency, we will forward this information to the Michigan State Police.