

ORDINANCE 2020-21

An Ordinance amending Chapter 28 of the Code of Ordinances, City of Jackson, Michigan to modify the regulations for medical and adult use marihuana facilities for the health, safety and welfare of the citizens of Jackson.

THE PEOPLE OF THE CITY OF JACKSON ORDAIN:

Section 1. Purpose. To create zoning district and other zoning regulations for adult use marihuana facilities for the health, safety and welfare of the citizens of Jackson.

Section 2. That Chapter 28 of the Code of Ordinances of the City of Jackson, Michigan, and the same hereby is, amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 28-5. - Definitions¹.

Unless context indicates otherwise, the following words and phrases used in this chapter have these meanings:

Adult Use Marihuana Establishments, Emergency Rules, or Rules, means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.

Agency means the Michigan Marijuana Regulatory Agency, a division of the Michigan Department of Licensing and Regulatory Affairs.

Arcade means an establishment wherein the operation of coin-operated amusement devices as defined in Chapter 16 of this Code is conducted as the principal business thereof. For “video arcade” please see the definition within this section.

Co-location of one (1) medical and one (1) adult use marihuana facilities means that comparable medical and adult uses may be combined in the same suite and not considered a secondary license as regulated in Sec. 28-140 of the Code. If not comparable, only up to two (2) such uses may be located on the same parcel provided the ownership structure is identical for both and each is considered a separate license.

Cyber School means a full time instructional program of virtual courses for pupils that may or may not require attendance at a physical school location.

¹ The definitions in this Ordinance are in addition to the existing definitions in Section 28-5 of the City of Jackson Code of Ordinances. This ordinance does not alter or delete any existing Code definition.

Designated consumption establishment means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age or older to consume marihuana product at the location indicated on the state license.

Enclosed Locked Facility means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground and as defined in the MMMA. If this definition is amended by state law, the amended definition shall apply.

Equivalent licenses means any of the following held by a single licensee:

- (a) *A marihuana grower license, of any class, issued under the act and a grower license, of any class issued under the MMFLA.*
- (b) *A marihuana retailer license issued under the act and a provisioning center license issued under the MMFLA.*
- (c) *A marihuana secure transporter license issued under the act and a secure transporter license issued under the MMFLA.*
- (d) *A marihuana safety compliance facility license issued under the act and a safety compliance facility license issued under the MMFLA.*

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, provisioning center, or another grower.

LARA means the State of Michigan Licensing and Regulatory Affairs division which is charged with administration and enforcement of the Michigan Medical Marihuana Act and the Michigan Medical Marihuana Facilities Licensing Act.

Licensee means a person holding a state operating license and a City of Jackson license to operate a medical marihuana facility.

Marihuana means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106, and does not include industrial hemp as defined in the Industrial Hemp Research and Development Act.

Marihuana plant means any plant of the species *Cannabis sativa* L.

Marihuana establishments means a marihuana grower with or without a processor, marihuana safety compliance facility, marihuana microbusiness, marihuana provisioning center, marihuana retailer, marihuana secure transporter or any other type of marihuana-related business licensed to operate by the agency under the Michigan Medical Marihuana Facilities Licensing Act, Michigan Regulation and Taxation of Marihuana Act and their associated rules and regulations.

Marihuana event organizer means a person licensed to apply for a temporary marihuana event license under the associated rules.

Marihuana microbusiness means a combined operation including the cultivation of up to 150 plants, processing and packaging of on-site grown marihuana, retail sale or transfer of said marihuana to individuals over 21 years of age, and transfer of marihuana to a safety compliance facility for testing, but not to other adult-use marihuana establishments.

Michigan Medical Marihuana Act or *MMMA* means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended.

Michigan Medical Marihuana Facilities Licensing Act or *MMMFLA* means the Michigan Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.2701 et seq., as amended.

Michigan Regulation and Taxation of Marihuana Act or *MRTMA* means the Act passed by the voters of the State of Michigan at the November 6, 2018 election which is expected to be referred to as Initiative Law 1 of 2018.

Medical Marihuana Rules, Emergency Rules, or Rules, means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.

Outdoor grow means a fully enclosed outdoor area that is shielded from public view and is not visible without the use of binoculars, aircraft, or other optical aids, and is equipped with secure locks and other functioning security devices to prevent entry into the area by unauthorized persons.

Park means an area of land used for the enjoyment of the public, having facilities for rest and recreation.

Playground means any outdoor facility (including parking lots appurtenant thereto) intended for recreation open to the public, and with any portion thereof containing three or more separate apparatus for the recreation of children including, but not limited to, slides, swing sets, and teeterboards.

Primary caregiver or caregiver means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past ten (10) years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, Act 175 of 1927, MCL 770.9a.

Process or *Processing* means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

Proposed marihuana establishment means a location at which an applicant plans to operate a marihuana establishment under the act and the associated rules if the applicant is issued a state license.

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 through LARA'S marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this Act.

Qualifying patient or *patient* means a person who has been diagnosed by a physician as having a debilitating medical condition alleviated by the use of medical marihuana, and who is registered through LARA to grow and consume marihuana.

Registered primary caregiver means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act.

Registered qualifying patient means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

Registry identification card means that term as defined in section 3 of the Michigan Medical Marihuana Act.

Safety compliance facility means a licensee that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana establishment.

School means a public or private licensed pre-school, or a public, private, or charter elementary, middle, junior high, or high school, vocational school, secondary school, community college, or other institution of higher education.

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.

Special license means a state license described under section 8 of the MRTMA and issued pursuant to section 9 of the same act, MCL 333.27958 and 333.27959.

State operating license or, unless the context requires a different meaning, *license* means a license that is issued under this act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower (Class A only for Medical, Classes A and B for Adult Use, may include research and development component) with or without a processing facility;
- (ii) A safety compliance facility;
- (iii) A provisioning center;
- (iv) A retailer;
- (v) A microbusiness;
- (vi) A secure transporter; or

- (vii) One (1) co-located grower and processor (maximum number of stacked MMFLA Class C grower licenses, the maximum number of stacked MRTMA Class C grower licenses and up to one (1) each MMFLA and MRTMA processor licenses). Licensee may also operate up to two (2) separate co-located retailers at a separate address in the City of Jackson,

Temporary marihuana event license means a state license held by a marihuana event organizer for an event where the onsite sale is authorized at the location indicated on the state license during the dates indicated on the state license.

Youth center means any recreational facility and/or gymnasium (including any parking lots appurtenant thereto), intended primarily for use by person under 18 years of age, which regularly provides athletic, civic, or cultural activities.

Video arcade facility means any facility legally accessible to person under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

Virtual course means a course of study that is capable of generating a credit or a grade and that is provided in an interactive learning environment in which the majority of the curriculum is delivered using the internet and in which publics are separated from their instructor or teacher of record by time or location, or both.

ARTICLE III. ZONING DISTRICT REGULATIONS

Sec. 28-71. Permitted and conditional uses.

The following uses are permitted (P), or conditional (C) within the zoning districts. Conditional uses require approval by the planning commission according to the procedures of section 28-147.

Zoning Districts												
	R-1	R-2	R-3	R-4	R-5	R-6	C-1	C-2	C-3	C-4	I-1	I-2
(96) Medical and adult use marihuana facilities:												
a. Grower with or without a co-located processing facility in accordance with Sec. 28-140 of the Code.											P	P
b. Registered primary caregiver in accordance with	P	P	P	P	P	P	P	P	P	P	P	P

	MMMA and Chapter 16.												
c.	Retail or provisioning center facility in accordance with Sec. 28-140 of the Code.									P	P	P	P
d.	Secure transporter facility in accordance with Sec. 28-140 of the Code.											P	P
e.	Safety compliance facility in accordance with Sec. 28-140 of the Code.										P	P	P
f.	Microbusiness in accordance with Sec. 28-140 of the Code.											P	P

(Renumber the rest of Sec. 28-71, table of permitted and conditional use uses)

ARTICLE IV. - SITE AND BUILDING DESIGN STANDARDS

Sec. 28-100. - Off-street parking, loading, and access design standards.

(a) *General provisions for off-street parking.*

(6) *Parking lot setbacks for uses other than one- or two-family dwellings.* Parking lots, including drives and maneuvering aisles, but excluding driveways, must maintain a minimum of a five (5) foot setback from the abutting right-of-way(s) and abutting property lines. Where two (2) unlike zoning districts abut, a minimum of an eight (8) foot setback shall be maintained. However, front yard setbacks for warehousing and marihuana transporter establishments shall be equal to the established front yard building line of the subject parcel. The zoning administrator (or designee) may waive this requirement where a shared access driveway, connected parking lots, or rear service drive is provided, or where landscaping, a wall or a fence is provided to screen views and headlight glare. Required parking lot setback areas must be landscaped according to the standards of Section 28-105 of this chapter.

(c) *Off-street parking space requirements.*

- (1) *General off-street parking requirements.* The requirements in this subsection apply to uses outside of the downtown. Please refer to subsection (c)(2) of this section for the off-street parking requirements which apply in the C-3 district.

Table of General Off-Street Parking Space Requirements			
Use	Range of Parking Spaces		
	Min.	Max.	Measurement
Commercial uses			
Convenience stores, medical marihuana provisioning centers, and marihuana retail establishments (including temporary marihuana events)	1.00	2.00	spaces per 150 square feet of GFA, and
	1.00	1.00	space for each 2.5 seats of on-site seating, and
	1.00	1.00	space per each employee based upon the peak shift
General commercial and retail sales establishments (excluding convenience stores and liquor stores, medical marihuana provisioning centers, and marihuana retail establishments)	5.00	5.00	spaces; and
	1.00	1.50	spaces per 1,000 square feet of UFA for stores up to 25,000 square feet of GFA; and
	0.50	1.75	spaces per each additional 1,000 square feet of UFA for stores greater than 25,000 square feet of GFA such as shopping centers, discount stores, club warehouses, home improvements centers and grocery stores; and
	0.00	0.25	spaces per 1,000 square feet of UFA of outdoor display and sales areas
	1.00	1.10	spaces per employee on maximum shift

Industrial uses			
Light and general manufacturing, research establishments, testing labs, development centers, marihuana grower with or without a processor (excluding registered primary caregiver), marihuana safety compliance facility, and marihuana microbusiness	2.00	5.00	spaces; plus
	1.00	1.10	spaces per employee on maximum shift; and the spaces required for any office or sales area
Warehousing and marihuana secure transporter establishments	2.00	5.00	spaces; plus
	1.00	1.10	spaces per employee on maximum shift; and
	1.00	1.10	spaces for each vehicle to be stored on the premises

(f) *Commercial vehicle parking and storage.*

(7) No vehicles used by secured transporters may contain any medical or adult use marihuana when a driver or passenger is not present in the vehicle.

Sec. 28-110. - Environmental protection standards.

(d) *Standards for limiting the external effect of uses.* All uses must comply with the following standards which limit their effect on the surrounding area:

(2) Every use must be so operated that it is not obnoxious or dangerous to adjacent properties by reason of the following:

c. *Odor.* The emission of odors found to be obnoxious to any considerable number of persons at their place of residence or place of business is prohibited.

(3) *Outdoor storage and waste disposal.*

e. Screening of trash storage areas. Any new or altered use which has an outdoor trash storage area containing a dumpster, must comply with the following requirements:

1. Any such area is to be limited to normal refuse which is collected on a regular basis and must be maintained in a neat, orderly, and sanitary condition.

2. In no instance may any such refuse be visible above the wall, as required in subsection (e) (3) of this section.

- (e) *Hazardous materials.*
 - (3) *Outdoor aboveground storage.* Secondary containment structures must be designed to protect containers from the effects of storms, wind, fire and vandalism. Structures that are covered and protected from rain and precipitation must provide secondary containment for ten (10) percent of the volume of all containers or the volume of the largest container, whichever is greatest. Structures that are not protected from rain and precipitation must provide secondary storage capacity to hold one hundred fifty (150) percent of the stored substances unless the zoning administrator (or designee) or planning commission approves a less quantity. Whether open or covered, the above ground storage area shall also be fully screened from view at all abutting parcel perimeters. Outdoor storage of medical marihuana must comply with State law requirements.
- (f) *Storage of flammable or explosive materials.* The location or storage of flammable or explosive materials will be regulated as follows. However, section 28-145 of this chapter may contain additional requirements for certain conditional uses. The storage of normal household chemicals is exempt from these regulations.
 - (3) Said containers or storage facilities must be at least forty (40) feet from any side or rear lot line and one hundred fifty (150) feet from the front lot line as measured from the edge of the street right-of-way, unless a shorter distance is required by State law.
- (g) *Medical and adult use marihuana regulations.* The following regulations shall apply to medical and adult use marihuana facilities:
 - (1) The storage of marihuana waste shall be in accordance with the Michigan Medical Marihuana Facilities Licensing Act, the Michigan Regulations and Taxation of Marihuana Act, and the associated rules and advisory bulletins promulgated therefore, as amended.
 - (2) Marihuana facilities shall comply with all federal, state, and local stormwater requirements.
 - (3) Marihuana facilities shall comply with all federal, state, and local wastewater requirements.
 - (4) No outdoor grow operations (medical or adult use) shall be permitted.

Sec. 28-111. – Temporary uses and structures

- (b) Temporary uses.
 - (3) Transient merchants
 - (b) Transient indoor sales
 - 1. *Appropriate zoning.* The property must be zoned appropriately for the temporary use.

2. *Plot site plan (PSP).* A PSP complying with the requirements of subsection 28-135(e) of this chapter must be submitted for the review and approval of the zoning administrator (or designee), with the following exceptions:
 - C. Temporary marihuana events shall comply with all informational requirements outlined in Rule 62 of the Michigan Regulations and Taxation of Marihuana Act, including verification that the request was submitted to the agency no less than 90 days before the first day of the event.
3. *Exclusions.* Sales are excluded from public rights-of-way or other public property, unless approval is also granted for temporary outdoor sales (see subsection 28-111(b)(2) of this section or seasonal outdoor sales and displays (see subsection 28-111(c)(2) of this section).
4. *Duration.* Sales are limited to one hundred and eighty (180) days in any given calendar year. However, temporary marihuana events are limited to no more than five (5) events per calendar year for no more than seven (7) consecutive days at any given location.
5. *Dedicated parking.* The parking lot, or portion of a parking lot reserved for the temporary use must contain at least seventy-five (75) percent of the required spaces, as specified in subsection 28-100(c) of this chapter. The same standard must be observed for any primary use(s).
6. *Odor, noise and lighting.* The temporary use and any associated structures must comply with the standards for odor contained in subsection 28-110(d)(2), noise contained in section 17-76, et seq., of this Code and subsection 28-110(d)(2) of this chapter and the standards for lighting contained in section 28-125 of this chapter, to the fullest extent possible, as determined by the zoning administrator (or designee).
7. *Signage.* Signage related to the temporary use must comply with the standards contained in article IX of this Code to the fullest extent possible, as determined by the zoning administrator (or designee). However, temporary marihuana events must also display the requisite signage outlined in Rule 62 of the Michigan Regulations and Taxation of Marihuana Act.
8. *Other city regulations.* The applicant must also comply with chapter 16 of this Code

Sec. 28-115. Building design standards for medical and adult use marihuana facilities.

- (h) In addition to the building design standards outlined in sections (a) – (f), the following standards shall apply to all medical and adult use marihuana facilities:
 - (1) Except when being transported by a licensed secure transporter, all medical and adult use marihuana must be in an enclosed, locked facility having a permanent foundation, walls, and a roof.
 - (2) A roof on a grow facility may consist of a sturdy transparent material, such as glass, approved by the Chief Building Official, to allow for sunlight into the growing area of the building. If such transparent material is utilized, it must be fully covered with a non-transparent material between dusk and dawn that prevents interior lighting to escape through the roof.
 - (3) In addition to all State requirements, if any portion of a building is used as a medical or adult use marihuana facility, a partition wall of a height required by applicable building codes shall separate the marihuana from the remainder of the building. A masonry partition wall must include a door, capable of being closed and locked, for ingress and egress between the area containing marihuana and the remainder of the building.

ARTICLE V. - DEVELOPMENT APPROVAL PROCEDURES

Sec. 28-130. - Nonconforming lots, buildings, signs, structures, and uses of buildings, structures and land

- (k) Nonconforming medical and adult use marihuana facility uses.

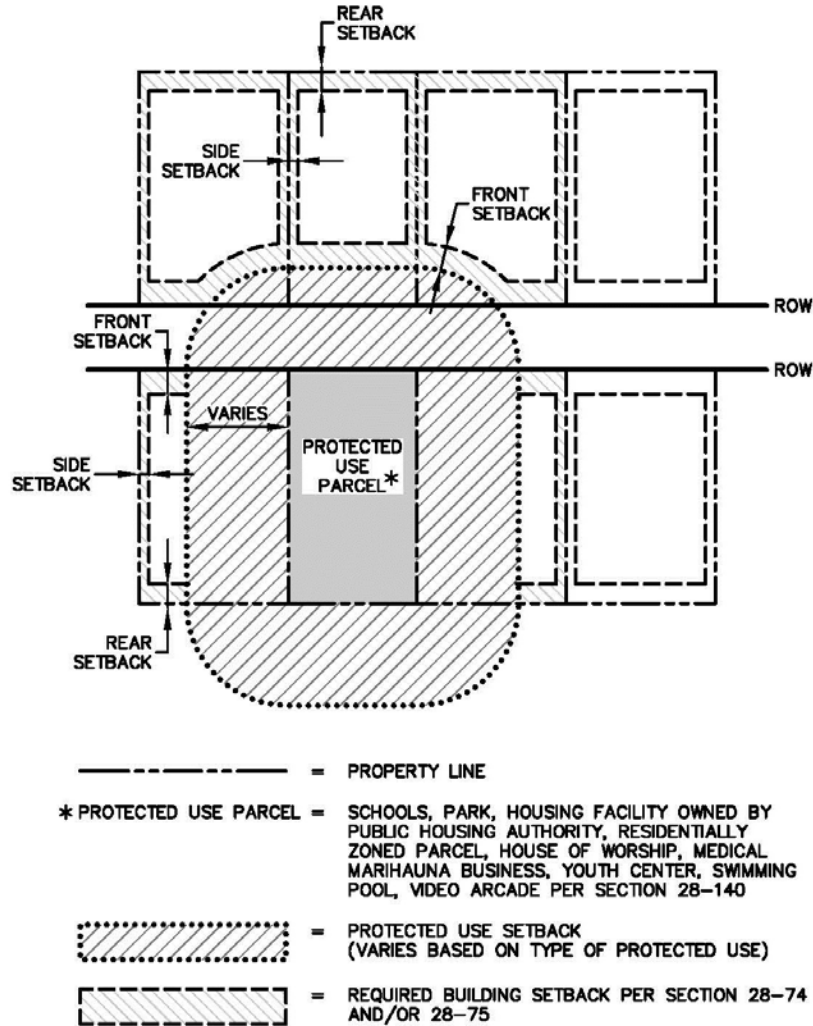
Medical and adult use marihuana facilities, including a grower , provisioning center, retailer, safety compliance facility, secure transporter, microbusiness, or any marihuana facility or establishment of any type, other than that of a licensed caregiver operating within the limits of the Michigan Medical Marihuana Act, which may have been established prior to the effective date of this ordinance, but which have not gained a license from both the State of Michigan and the City of Jackson shall not be considered legally nonconforming uses. In addition, no marihuana facilities may be permitted as a home occupation or accessory use.

Sec. 28-140. - Additional development requirements for certain permitted uses.

The following minimum nondiscretionary standards must be met for the permitted uses specified in this section:

- (2) *Medical and adult use marihuana facility use setbacks.* Medical and adult use marihuana facilities, excluding a provisioning center/retailer in the C-3 zoning district, transport facilities and safety compliance facilities, must comply with the following use setback requirements:
 - a. Setback of five hundred (500) feet of any public or private elementary, vocational, or secondary school or a public or private college, junior

- college, or university OR one hundred (100) feet in the C-4 zoning district;
- b. Setback of five hundred (500) feet of the physical location of any cyber school as defined in Sec. 28-5 and as measured from door to door OR one hundred (100) feet in the C-4 zoning district;
 - c. Setback of five hundred (500) feet of a park and/or playground OR one hundred (100) feet in the C-4 zoning district;
 - d. Setback of five hundred (500) feet of a housing facility owned by a public housing authority OR one hundred (100) feet in the C-4 zoning district;
 - e. Setback of five hundred (500) feet of a day care facility, including any and all accessory uses/facilities OR one hundred (100) feet in the C-4 zoning district;
 - f. Setback of five hundred (500) feet of a substance abuse treatment, rehabilitation, or prevention facility as defined and licensed by the Department of Licensing and Regulatory Affairs (LARA) OR one hundred (100) feet in the C-4 zoning district;
 - g. Setback of two hundred and fifty (250) feet of a residentially zoned parcel OR one hundred (100) feet in the C-4 zoning district;
 - h. Setback of five hundred (500) feet of a church or other house of worship that has received tax exempt status from the City Assessor OR one hundred (100) feet in the C-4 zoning district;
 - i. Up to two (2) facilities may be located within five hundred (500) feet of another medical or adult use marijuana business establishment as measured from the closest building line unless co-location has been approved by the City as per Sec. 28-140(3);
 - j. Setback one hundred (100) feet of a public or private youth center, swimming pool, or video arcade facility;
 - k. All distances shall be measured from property line to property line except as noted in subsection (2)b and (2)i. above;
 - l. For parcels upon which the use setbacks extend inside the property lines, the building setbacks (see Sec. 28-74 and Sec. 28-75) shall be measured from said use setback instead of the property line (see below). The remaining portion of the parcel that lies within the required use setback must be returned to its natural state (no structures shall remain). All other Chapter 28 (zoning) requirements shall apply; and



m. All other applicable Chapter 28 regulations shall apply to such uses.

- (3) *Medical and adult use marihuana facility co-location.* Medical and adult use marihuana facilities may co-locate in the same suite provided they are under the same ownership structure and each complies with the respective zoning and licensing requirements as outlined in the applicable City and State laws/rules. However, only up to two (2) comparable medical and adult uses may co-locate under one (1) City license. If not comparable, then only up to two (2) use types may co-located on any one (1) parcel provided the ownership structure is identical for each and each will be considered as a separate City license.

Section 3. This Ordinance takes effect on the date that the companion licensing ordinance goes into effect.

Adopted: The foregoing Ordinance 2020-21 was adopted by the Jackson City Council on the 8th day of December 2020 and a summary was published on December 13, 2020.

Derek J. Dobies, Mayor

Andrea Muray, City Clerk