

**1:101. Legislative Intent.**

The city intends to issue permits for and regulate marijuana facilities to the extent they are permitted under the Medical Marijuana Facilities Licensing Act. The city does not intend that permitting and regulation under this chapter be construed as a finding that such facilities comply with state or federal law. Although some specific uses of marijuana are allowed by the Michigan Medical Marijuana Act and some types of marijuana facilities are permitted to operate in Michigan under the Medical Marijuana Facilities Licensing Act, marijuana continues to be classified as a Schedule 1 controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute, or dispense marijuana, or to possess it with intent to manufacture, distribute, or dispense. Moreover, by requiring a permit and compliance with the requirements of this chapter, the city intends to protect the public health, safety and welfare.

**1:102. Definitions of terms used in the medical marijuana facilities licensing act.**

- (1) *Words and phrases contained in the Medical Marijuana Facilities Licensing Act ("MMFLA").* This Chapter contains some words and phrases that are defined in the MMFLA. As used in this Chapter, they have the same meaning as provided in the MMFLA, except that if at any time the definition of a word or phrase set forth in this section conflicts with the definition in the MMFLA, then the definition in the MMFLA shall apply. These words and phrases are as follows:
- a. "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.
  - b. "Licensee" means a person holding a state operating license.
  - c. "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
  - d. "Marihuana facility" means a location at which a license holder is licensed to operate under the MMFLA.
  - e. "Marihuana plant" means any plant of the species *Cannabis sativa* L.
  - f. "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marijuana that is intended for human consumption in a manner other than smoke inhalation. Marijuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.
  - g. "Michigan medical marijuana act" means the Michigan medical marijuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

- 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. "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.
- j. "Processor" means a licensee that is a commercial entity located in this state that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.
- k. "Provisioning center" means a licensee that is a commercial entity located in this state that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marijuana 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 the department's marijuana registration process in accordance with the Michigan medical marijuana act is not a provisioning center for purposes of this act.
- l. "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.
- m. "Safety compliance facility" means a licensee that is a commercial entity that receives marijuana from a marijuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.
- n. "Secure transporter" means a licensee that is a commercial entity located in this state that stores marijuana and transports marijuana between marijuana facilities for a fee.
- o. "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.
  - ii. A processor.
  - iii. A secure transporter.
  - iv. A provisioning center.

v. A safety compliance facility.

(2) *Other words and phrases.* The words and phrases in this Chapter, as used in this Chapter, shall have the following meanings:

(a) "Applicant" means a person who applies for a City permit.

(b) Authorized person" means:

(i) An owner of a medical marijuana dispensary;

(ii) The directors, officers, members, partners, and individuals of a medical marijuana dispensary that is a corporation, limited liability company, partnership, or sole proprietorship;

(iii) Any person who is in charge of and on the premises of the medical marijuana dispensary during business hours.

(c) "Marijuana" means "marihuana" as defined in the MMFLA.

(d) "Medical marijuana home occupation" means an accessory use of a nonresidential nature that is conducted by a registered primary caregiver who resides in the dwelling and (A) is performed within a single-family dwelling or within an accessory building to that single-family dwelling; (B) is for the purpose of assisting 1 or more registered qualifying patients with the medical use of marijuana who do not reside in the dwelling and (C) complies with the MMMA. As used in this subsection, "accessory use" has the same meaning as it does in Chapter 55 (Zoning) of the Ann Arbor City Code.

(e) "Medical Marihuana Facilities Licensing Act" and "MMFLA" mean Public Act 281 of 2016, MCL 333.27101, et seq.

(f) "Permittee" means a person holding a City permit under this Chapter.

(g) "Class A grower" means a grower of not more than 500 marihuana plants.

(h) "Class B grower" means a grower of not more than 1,000 marihuana plants.

(i) "Class C grower" means a grower of not more than 1,500 marihuana plants.

(j) "Facility" means "marihuana facility" as defined in the MMFLA.

(k) "Marijuana facility" means "marihuana facility" as defined in the MMFLA.

- (l) "Person" means the entities included in the definition of "person" in Chapter 1 of the Ann Arbor City Code, in addition to the entities included in the definition of "person" in the MMFLA.
- (m) "City permit" or, unless the context requires a different meaning, "permit" means a permit that is issued under this Chapter that allows the permittee to operate as 1 of the following, specified in the permit:
  - i. A grower.
  - ii. A processor.
  - iii. A secure transporter.
  - iv. A provisioning center.
  - v. A safety compliance facility.

**1:103. Marihuana Facilities Authorized.**

(1) Pursuant to the MMFLA, the City of Ann Arbor authorizes the operation in the City of the following marijuana facilities, provided they possess a state operating license issued under the MMFLA and they comply with the additional requirements of this Chapter, Chapter 55 (Zoning), and all other applicable laws and ordinances:

- (a) Grower, including Class A grower; Class B grower, and Class C grower.
- (b) Processor.
- (c) Provisioning center.
- (d) Secure transporter.
- (e) Safety compliance facility.

(2) No person or entity that was open or operating any facility purporting to produce, manufacture, test, transfer or transport medical marihuana or marihuana prior to the adoption of this ordinance by the City Council shall be considered a lawful use or lawful nonconforming use. (from sample ordinance that combines permit and zoning in same ordinance)

No vested rights. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this section or any amendment of this section. (from Clare that combines permit and zoning in same ordinance)

**1:104. City Permit Required.**

- (1) No person shall operate a facility for which an annual permit as provided for in this Chapter has not been issued.

- (2) A facility shall not be eligible for a permit under this Chapter if any person required to be named on the permit application or the application for a state operating license has ever been convicted of a felony involving controlled substances as defined under the Michigan Public Health Code, MCL 333.1101 et seq., the federal law, or the law of any other state.
- (3) The permit requirement in this chapter applies to all facilities that exist on the effective date of this chapter or are established after the effective date of this chapter. This includes commercial entities that performed functions of marijuana facilities before enactment of the MMFLA or before obtaining a state operating license.
- (4) The permit requirement in this Chapter applies to all facilities whether operated for profit or not for profit.
- (5) The permit requirement in this Chapter shall be in addition to any other requirements imposed by any other state or local law, including but not limited to state or local laws applicable to commercial entities performing a functions similar to the functions performed by marijuana facilities.
- (6) The issuance of any permit pursuant to this Chapter does not create an exception, defense or immunity to any person with regard to any potential criminal or civil liability the person may have under any federal or state law or city ordinance.
- (7) A permit issued under this Chapter shall be valid for 1 year after the date of issuance. To renew an existing permit, the permittee shall submit an application in the same manner as is required to apply for a new permit no sooner than 90 days before the expiration date and no later than 60 days before the expiration date.
- (8) Medical marijuana home occupations do not require permits.

**1:105. - General provisions.**

- (1) A permit issued under this chapter is valid only for the location of the facility and type of facility that is listed on the permit application and is valid only for the operation of the facility at that location by the permit applicant.
- (2) A permit issued by the city under this chapter, shall be conspicuously posted in the facility where it is easily open to public view.
- (3) Acceptance of a permit from the city under this chapter constitutes consent by the permittee, owners, managers and employees to permit the City Administrator or designee to conduct inspections of the facility to ensure compliance with this chapter.

**1:106. Application Requirements for and Issuance of City Permit.**

(1) *Application for new annual permit.* An application for a new annual permit for a marijuana facility shall be submitted to the City Clerk on a form provided by the city, which shall fulfill all of the requirements indicated on the form, including but not limited to:

(a) The name and address of the facility and any other contact information requested on the application form.

(b) The name and address of all owners of the real property where the facility is located.

(c) Name and address of all business managers of the facility.

(d) A statement with respect to each person named on the application whether the person has:

(i) Ever been convicted of a felony involving controlled substances as defined under the Michigan Public Health Code, MCL 333.1101 et seq., the federal law, or the law of any other state and, if so, the date of the conviction and the law under which the person was convicted;

(ii) Ever been convicted of any other type of felony under the law of Michigan, the United States, or another state, and, if so, the date of the conviction and the law under which the person was convicted.

(e) Proof of applicant's ownership or legal possession of the premises.

(f) Copy of the permit applicant's state operating license.

(g) Copy of the permit applicant's completed application form that was submitted to the state.

(h) A zoning compliance permit.

(i) A certificate of occupancy.

(j) Payment of a non-refundable application fee, which shall be determined by resolution of the City Council.

(2) *Renewal or amendment of existing permits.*

(a) The same procedures that apply to applying for a new permit shall apply to the renewal or amendment of existing permits.

(b) An application for renewal of an existing permit shall be submitted no sooner than 10 weeks (70 days) before the existing permit expires.

(c) An amended application shall be submitted under both of the following circumstances:

- (i) when there is a change in any information the permit applicant was required to provide in the most recent application on file with the city; and,
- (ii) when there is a change in any information the permit applicant was required to provide in the most recent application for a state operating license on file with the state of Michigan.

(d) An application to amend an existing permit to change the location of the facility shall be submitted no later than 10 weeks (70 days) before the existing permit expires. An application to amend an existing permit to change any other information on the most recent application on file with the city may be submitted at any time.

(e) Applications for renewal or amendment of existing permits shall be reviewed and granted or denied before applications for new permits are considered.

(4) *Requirements for Issuance of Permit.* Following official confirmation by staff that the applicant has submitted a complete application, a new permit shall not be issued to a marijuana facility until the applicant for the facility complies with all of the following requirements:

(a) The applicant has installed the following security measures on the premises:

- (i) security cameras to monitor all areas of the premises where persons may gain or attempt to gain access to marijuana or cash. Recordings from security cameras shall be maintained for a minimum of 72 hours. The City Administrator may adopt regulations implementing this requirement, including but not limited to regulations on the design, location, maintenance, and access to the cameras and recordings. Those regulations shall take effect 30 days after being filed with the City Clerk unless modified or disapproved by the City Council.
- (ii) A safe for overnight storage of any processed marijuana and cash on the premises, with the safe being incorporated into the building structure or securely attached thereto.

(iii) A monitored alarm system.

(b) The applicant provides the city with a certificate signed by a qualified agent of an insurance company evidencing the existence of valid and effective policies of the following types of insurance, as well as a copy of an endorsement placed on each policy requiring 10 days' notice by mail to the city before the insurer may cancel the policy for any reason:

- (i) Workers' compensation insurance in accordance with Michigan statutory limits and Employers Liability Insurance with a minimum limit of \$100,000.00 each accident for any employee.
- (ii) Public liability and personal injury insurance with minimum limits of \$500,000.00 for each occurrence as respect to bodily injury liability or property damage liability, or both combined.

Documentation must explicitly state the following: (a) the policy number; (b) name of insurance company; (c) name and address of the agent or authorized representative; (d) name and address of the insured; (e) location of coverage; (f) policy expiration dates; and (g) specific coverage amounts. An original certificate of insurance may be provided as an initial indication of the required insurance. Applicant shall be required to continue without interruption during the term of the permit the above named insurance coverages. If any of the above coverages expire by their terms during the term of a permit, the applicant shall deliver proof of renewal and/or new policies to the City Clerk at least 10 days prior to the expiration date.

Insurance companies, named insureds and policy forms shall be subject to the approval of the City Attorney, within 5 business days. Insurance policies shall not contain endorsements or policy conditions which reduce coverage required under the terms of the permit.

**1:107. - Issuance of permit.**

If the permit applicant has successfully demonstrated compliance with all requirements for issuance of a permit the City Administrator shall issue a new permit to the permit applicant if a permit is available or grant renewal of an existing permit.

**1:108. - Conduct of business at a facility.**

- (1) A facility shall be conducted in compliance with the MMFLA, the rules promulgated pursuant to the MMFLA, the MMMA, and all other laws, rules, and regulations of the state of Michigan and the City of Ann Arbor.
- (2) All marijuana in any form kept at the location of the medical marijuana dispensary shall be kept within an enclosed, secured building and shall not be visible from any location outside of the building.
- (3) Marijuana facilities shall be closed for business, and no sale or other distribution of marijuana in any form shall occur upon the premises or be delivered to or from the premises, between the hours of 9:00 p.m. and 7:00 a.m.
- (4) A marijuana facility shall report all criminal activities that occur at the facility to the Ann Arbor Police Department immediately upon discovery.
- (5) An authorized person shall consent to the entry into a marijuana facility by the Building Official and Zoning Inspectors for the purpose of inspection to determine



compliance with this chapter pursuant to a notice posted in a conspicuous place on the premises 2 or more days before the date of the inspection or sent by first class mail to the address of the premises 4 or more calendar days before the date of the inspection.

- (6) All security measures required in this chapter shall be maintained in good working order. The premises shall be monitored and secured 24 hours per day.
- (7) All marijuana in any form on the premises of a marijuana facility shall be marijuana cultivated, manufactured, and packaged in the State of Michigan.

### **1:109. Prohibited Acts.**

It shall be unlawful for any person to:

- (1) Violate any provision of this chapter or any condition of any permit granted pursuant to this chapter.
- (2) Produce, distribute or possess more marijuana than allowed by any applicable state or local law.
- (3) Produce, distribute or possess marijuana in violation of this chapter or any other applicable state or local law.
- (4) Make any changes or allow any changes to be made in the operation of the marijuana facility as represented in the permit application, without first notifying the city by amending its application.

### **1:110. - Permit revocation.**

A permit issued under this chapter may be suspended or revoked for any of the following violations:

- (1) Any person required to be named on the permit application is convicted of or found responsible for violating any provision of this chapter;
- (2) A permit application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the city with any other false or misleading information related to the facility;
- (3) Any person required to be named on the permit application is convicted of a crime which, if it had occurred prior to submittal of the application, could have been cause for denial of the permit application;
- (4) Marijuana is dispensed on the business premises in violation of this chapter or any other applicable state or local law, rule or regulation;

- (5) The facility is operated or is operating in violation of the specifications of the permit application, any conditions of approval by the city or any other applicable state or local law, rule or regulation.
- (6) The city, the county, or any other governmental entity with jurisdiction, has closed the facility temporarily or permanently or has issued any sanction for failure to comply with health and safety provisions of this chapter or other applicable state or local laws related to public health and safety.
- (7) The facility is determined by the city to have become a public nuisance.
- (8) The facility's state operating license has been suspended or revoked.

**1:111. - Revocation not exclusive penalty.**

Nothing in this chapter shall be deemed to prohibit the City Administrator or designee from imposing other penalties authorized by the Ann Arbor City Code or other ordinance of the city, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

**1:112. Penalty for violations.**