

ORDINANCE NO. ORD-23-28

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CHAPTER 96 (MEDICAL MARIJUANA FACILITIES AND MARIJUANA ESTABLISHMENTS)

AN ORDINANCE TO AMEND SECTION 7:602, SECTIONS 7:604 TO 7:606, SECTION 7:608 AND SECTION 7:613 OF CHAPTER 96 (MEDICAL MARIJUANA FACILITIES AND MARIJUANA ESTABLISHMENTS) OF TITLE VII OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor Ordains:

Section 1. That Section 7:602 be amended to read as follows:

7:602. Definitions.

- (1) Words and phrases contained in the Michigan Medical Marihuana Facilities Licensing Act, MCL 33327101 et seq., the Medical Marihuana Act, MCL 333.26421 et seq., the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., and the rules or emergency rules promulgated pursuant to any of these acts, shall have the same meanings in this chapter.
- (2) For purposes of the requirements for obtaining a permit under this chapter, the terms "facility" and "~~marihuana~~ marijuana facility" are intended to include both a "marihuana facility" as defined in the MMFLA and a "marihuana establishment" as defined in the MRTMA.
- (3) Additionally, the following words as used in this chapter setting forth the requirements for obtaining a city permit have the following meanings:
 - (a) *Applicant* means a person who applies for a city permit.
 - (b) *Authorized person* means:
 - (i) An owner of a facility;
 - (ii) The directors, officers, members, partners, and individuals of a facility that is a corporation, limited liability company, partnership, or sole proprietorship; holding a direct or indirect ownership interest stake of 10% or more;

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

(iv) A court-appointed receiver

(c) *City permit* or *permit*, unless the context requires a different meaning, means a valid permit that is issued under this chapter.

(d) *Designated consumption establishment* means a commercial space licensed by the state to permit adults 21 years of age and older to consume marijuana products at the location indicated in the license.

(e) Facility means a "marihuana facility" as defined in the MMFLA and a "marihuana establishment" as defined in the MRTMA.

~~(e)~~(f) Facility manager means a person who has responsibility for supervising the daily management, administration, or operation of a facility.

~~(f)~~(g) Grower means a person who cultivates and sells marijuana to other facilities, as permitted by the MMFLA and the MRTMA, which includes all of the following:

(i) *Class A grower*, which is a maximum of 500 plants under the MMFLA and 100 plants under the MRTMA.

(ii) *Class B grower*, which is a maximum of 1,000 plants under the MMFLA and 500 plants under the MRTMA.

(iii) *Class C grower*, which is a maximum of 1,500 plants under the MMFLA and 2,000 plants under the MRTMA.

(iv) *Excess marijuana grower*, which is a person to whom the state has issued 5 Class C marihuana grower licenses under the MRTMA (2,000 plants each).

~~(g)~~(h) Marijuana means "marihuana" as defined in the MMFLA and as defined in the MRTMA.

~~(h)~~(i) Marijuana event organizer means a person licensed to apply for a temporary marihuana event license under these rules.

~~(i)~~(j) Medical Marihuana Facilities Licensing Act or MMFLA means the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and the rules or emergency rules promulgated pursuant to the MMFLA.

- (~~jk~~) *Medical marijuana home occupation* has the same meaning in this Chapter as it does in the City Code of Ordinances, Chapter 55 (Unified Development Code).
- (~~kl~~) *Michigan Medical Marihuana Act* or *MMMA* means the Michigan Medical Marihuana Act, MCL 333.26421 et seq., and the rules or emergency rules promulgated pursuant to the MMMA.
- (~~lm~~) *Michigan Regulation and Taxation of Marihuana Act* or *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., and the rules or emergency rules promulgated pursuant to the MRTMA.
- (~~mn~~) *Marijuana microbusiness* means either:
- (i) A non-Class A microbusiness, which is a business that cultivates not more than 150 plants; processes and packages ~~it~~marijuana and marijuana products; and sells ~~it-or~~ transfers marijuana and marijuana products to individuals who are 21 years of age or older or to a safety compliance facility but not to other businesses.
- (ii) A Class A microbusiness, which is a business that cultivates not more than 300 plants; packages marijuana; purchases marijuana concentrate and marijuana-infused products from a licensed marijuana processor; sells or transfers marijuana and marijuana products to individuals who are 21 years of age or older or to a safety compliance facility but not to other businesses. A Class A microbusiness shall not process marijuana.
- (~~no~~) *Permittee* means a person holding a city permit under this chapter.
- (~~op~~) *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 and the MRTMA.
- (~~pq~~) *Processor* means a person who operates as a "processor" as defined in the MMFLA or a "marihuana processor" as defined in the MRTMA or as both at the same location under common ownership.
- (~~qr~~) *Provisioning center/retailer* means a person who operates as a "provisioning center" as defined in the MMFLA or as a "marihuana retailer" as defined in the MRTMA or as both at the same location under common ownership.
- (~~rs~~) *Safety compliance facility* means a person who operates as a "safety compliance facility" as defined in the MMFLA or a "marihuana safety compliance facility" as defined in the MRTMA or as both at the same location under common ownership.

- (s) *Secure transporter* means a person who operates as a "secure transporter" as defined in the MMFLA or a "marihuana secure transporter" as defined in the MRTMA or as both at the same location under common ownership.
- (tu) *State license* means a valid state operating license issued under the MMFLA or a valid state license issued under the MRTMA or both.
- (uv) *Temporary marijuana event*: a license held by a marijuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

Section 2. That Sections 7:604-7:606 be amended to read as follows:

7:604. City permit required, number of permits available.

- (1) No person shall operate a facility for which an annual permit as provided for in this chapter has not been issued. The maximum number of permits available for each type of facility is as follows:
 - (a) Grower permits — no maximum.
 - (b) Processor permits — no maximum.
 - (c) Secure transporter permits — no maximum.
 - (d) Provisioning center/retailer — 28 permits.
 - (e) Safety compliance facility permits — no maximum.
 - (f) Marijuana microbusiness permits — 28 permits.
 - (g) Designated consumption establishment permits — 28 permits.
- (2) As of the effective date of the ordinance amendment that adds references to the MRTMA to this chapter, an existing permit to operate a provisioning center as defined in the MMFLA is deemed to be one of the maximum number of provisioning center/retailer permits available. An existing permit to operate a provisioning center as defined in the MMFLA, when properly renewed will be designated as a provisioning center/retailer permit.
- (3) The permit requirement in this chapter applies to all facilities whether operated for profit or not for profit.

- (4) 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 functions similar to the functions performed by marijuana facilities.
- (5) 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.
- (6) 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~~14 days before the expiration date.
- (7) Medical marijuana home occupations do not require permits.

7:605. 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 under this chapter is valid only if the permit holder also holds a valid current state license and a copy of the valid current state license has been provided to the City Clerk by the state license holder and is in compliance with all other requirements in this chapter.
- (3) The revocation of, suspension of, and placement of restrictions by the state on a state license apply equally to a permit issued by the city.
- (4) The expiration date of the state license that corresponds to a permit issued under this chapter constitutes the expiration date of the permit, however, operation of the facility under the expired permit is permitted to the extent that operation under the expired state license is permitted under the MMFLA.
- (5) A permit issued by the city under this chapter, shall be conspicuously posted in the facility where it is easily open to public view.
- (6) 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.
- (7) When a marijuana business is placed under a court appointed receivership or declares for bankruptcy, the permittee, or receiver for the permittee, must notify the city within ten days of the appointed receivership or bankruptcy filing. The permittee

or receiver shall provide all relevant court documents to the Clerk's Office within ten business days.

7:606. 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 managers.
 - (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) A zoning permit.
 - (g) A certificate of occupancy or temporary certificate of occupancy.
 - (h) The type of facility for which a permit is requested at the location specified in the application, which, for purposes of obtaining a permit under this chapter, shall be one of the following:
 - (i) Grower.
 - (ii) Processor.
 - (iii) Provisioning center/retailer.

- (iv) Secure transporter.
- (v) Safety compliance facility.
- (vi) Marijuana microbusiness as defined in the MRTMA.
- (vii) Designated consumption establishment as defined in the MRTMA.

For purposes of obtaining a city permit, only one permit application is required for each type of facility listed above at one location, regardless of whether the applicant intends to apply for or has applied for a state license under the MMFLA, the MRTMA or both, at the same location under common ownership. For purposes of this chapter, a permit issued for a facility at the location indicated in the application form authorizes the operation of the facility in compliance with the MMFLA, the MRTMA or both, as applicable.

- (i) If the application is for a grower's permit, the maximum number of plants that the applicant intends to grow.
- (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 90 days before the existing permit expires and no later than 14 days before the expiration date.
- (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, Amended applications changing only a phone number or email address shall be handled administratively.~~
 - ~~(ii) When there is a change in any information the permit applicant was required to provide in the most recent application for a state 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 90 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.

Section 3. That Section 7:608 be amended to read as follows:

7:608. Conduct of business at a facility.

- (1) A facility shall be conducted in compliance with the MMFLA, the MRTMA, the MMMA, the rules promulgated pursuant to any of these acts, 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 marijuana facility 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.~~ 12:00 a.m. and 7:00 a.m.
- (4) An authorized person shall consent to the entry into a 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.
- (5) 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.
- (6) All marijuana in any form on the premises of a marijuana facility shall be marijuana cultivated, manufactured, and packaged in the State of Michigan.

Section 4. That Section 7:613 be amended to read as follows:

7:613. Applications to state for special licenses.

A ~~persons~~ person who applies for a state license as a marihuana event organizer or for a temporary marihuana event, as those terms are defined in the MRTMA, shall comply with all city ordinances applicable to the type of activity for which a state license is sought.

Section 5. This ordinance shall take effect on the tenth day after legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of September 5, 2023.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor of the City of Ann Arbor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's webpage on September 7, 2023.

Jacqueline Beaudry, Ann Arbor City Clerk