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Title: An Ordinance to Amend the Title of all Sections of and to Add a New Section 7:613 to Chapter 96 (Medical Marijuana Facilities) of Title VII of the Code of the City of Ann Arbor (Ordinance No. ORD-19-31)

Sponsors: Christopher Taylor

Indexes:

Code sections:

Attachments: 1. ORD-19-31 Medical Marijuana Facilities Ordinance Briefed and Approved.pdf, 2. ORD-19-31 Medical Maraijuana Facilities Ordinance Briefed.pdf, 3. Chapter 96 Marijuana Licensing As Amended.pdf, 4. Permit Ordinance Amendment FINAL DRAFT.pdf, 5. Memo to Mayor and Council 10-7-19 - Medical Marijunana.pdf

Date	Ver.	Action By	Action	Result
10/7/2019	1	City Council	Held and Closed	
10/7/2019	1	City Council	Adopted on Second Reading	Pass
9/16/2019	1	City Council		
9/16/2019	1	City Council	Lay on the table	Fail
9/16/2019	1	City Council	Amended	Pass
9/16/2019	1	City Council	Amended	Pass
9/16/2019	1	City Council	Approved as Amended on First Reading	Pass

An Ordinance to Amend the Title of all Sections of and to Add a New Section 7:613 to Chapter 96 (Medical Marijuana Facilities) of Title VII of the Code of the City of Ann Arbor (Ordinance No. ORD-19-31)

The attached ordinance amendment amends Chapter 96 (Medical Marijuana Facilities), which currently requires City permits for medical marijuana facilties, by adding a requirement for a City permit for marijuana establishments. “Marijuana establishments” are businesses that are licensed by the state to engage activities that are commonly referred to as “recreational marijuana” or “adult use” activities under the Michigan Regulation and Taxation of Marihuana Act (MRTMA). MRTMA was an initiative petition submitted to and approved by the voters on November 6, 2018.

The ordinance amendment requires City permits for seven types of businesses, five of which engage in the same type of activities as medical marijuana businesses. There are two new types of business under the MRTMA called designated consumption establishments and microbusinesses, for which the ordinance amendment requires City permits. Two types of licenses added by MRTMA are not “establishments” but rather enable holding temporary events and the ordinance amendment does not require obtaining a City permit under Chapter 96. However, other ordinances applicable to events in general may apply.

For purposes of obtaining a City permit, the ordinance amendment combines as one type of business a retailer under the MRTMA and a medical marijuana provisioning center, which the ordinance amendment calls a “provisioning center/retailer.” The ordinance amendment requires one City permit for each type of business operating at the same location whether they are operating under the MRTMA, the MMFLA, or both.

The types of businesses the state will license under the MRTMA are as follows:

- **Grower** (cultivates and sells marijuana to other businesses)
- **Processor** (purchases from a grower, extracts resin, and creates a marijuana-infused product for sale)
- **Safety Compliance Facility** (receives marijuana from a another business, tests it, returns the test results)
- **Secure Transporter** (stores marijuana and transports it between businesses).
- **Retailer** (sells marijuana individuals 21 years of age or older; akin to a provisioning center but not limited to selling only to medical marijuana patients)
- **Designated consumption establishment** (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)
- **Microbusiness** (cultivates not more than 150 plants; processes and packages it; and sells it to individuals who are 21 years of age or older or to a safety compliance facility but not to other businesses).
- **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)
- **Marijuana event organizer** (a person licensed to apply for a temporary event license under these rules)

Again, growers, processors, safety compliance facilities, and secure transporters are known by the same names under the MRTMA and the medical marijuana facilities act. Retailers and provisioning centers sell marijuana to individuals but have different names under the two acts. However, for purposes of obtaining a City permit they are considered one business known as a “provisioning center/retailer.”
Prepared by: Kristen D. Larcom, Senior Assistant City Attorney

ORDINANCE NO. ORD-19-31

First Reading: September 16, 2019
Public Hearing: October 7, 2019
Approved: October 7, 2019
Published: October 17, 2019
Effective: October 27, 2019

MEDICAL MARIJUANA FACILITIES

AN ORDINANCE TO AMEND THE TITLE OF, ALL SECTIONS OF, AND TO ADD A NEW SECTION 7:613 TO CHAPTER 96 (MEDICAL MARIJUANA FACILITIES) OF TITLE VII OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor Ordains:

Section 1. That Sections 7:601 through 7:612, being all sections of Chapter 96 of Title VII of the Code of the City of Ann Arbor, be amended to read as follows:

Chapter 96 - MEDICAL MARIJUANA FACILITIES AND MARIJUANA ESTABLISHMENTS

7:601. - Legislative Intent.

The city intends to issue permits for and regulate marijuana facilities and marijuana establishments to the extent they are permitted under the Michigan Medical Marihuana Facilities Licensing Act and the Michigan Regulation and Taxation of Marihuana Act.. The city does not intend that permitting and regulation under this chapter be construed as a finding that such facilities comply with any law. By requiring a permit and compliance with the requirements of this chapter, the city intends to protect the public health, safety and welfare.

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

(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.

(f) *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) *Marijuana* means "marihuana" as defined in the MMFLA and as defined in the MRTMA.

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

(i) *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.

(j) *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).

(k) *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.

(l) *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.

(m) *Marijuana Microbusiness* means a business that cultivates not more than 150 plants; processes and packages it; and sells it to individuals who are 21 years of age or older or to a safety compliance facility but not to other businesses.

(n) *Permittee* means a person holding a city permit under this chapter.

(o) *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.

(p) *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.

(q) *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.

(r) *Safety compliance facility* means a 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.

(t) *State license* means a valid state operating license issued under the MMFLA or a valid state license issued under the MRTMA or both .

(u) 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)

7:603. - Marijuana facilities authorized.

Pursuant to the MMFLA and the MRTMA, the City of Ann Arbor authorizes the operation in the city of the following facilities, provided they possess a state license or licenses and they comply with the additional requirements of this chapter, Chapter 55 (Unified Development Code), and all other applicable laws and ordinances:

(1) Grower.
(2) Processor.
(3) Provisioning Center/Retailer.
(4) Secure transporter.
(5) Safety compliance facility.
(6) Marijuana microbusiness.
(7) Designated consumption establishment.

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 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.

7:606. - 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.
(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.
(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 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.

7:607. - Issuance of permit and authorization to operate facility under permit.

(1) 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.

(2) The issuance of a permit under this chapter authorizes operation of the facility only after the following additional requirements are met:

(a) The applicant has provided the City Clerk with a copy of the applicant's state license.
(b) 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 monitored alarm system.

(iii) A storage room for overnight storage of any marijuana product and cash on the premises. The storage room shall have only 1 door for entry and no other potential means of entry, lawful or unlawful, such as a window or crawl space. The door shall be equipped with a locking mechanism that is different from other locks on any door within the facility.

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. 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.

7:609. - 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 facility as represented in the permit application, without first notifying the city by amending its application.

7:610. - Permit revocation.

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

(1) Any person whose name is on or is required to be 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 whose name is on or is required to be 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 license has been suspended or revoked.

7:611. - 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 or to file a public nuisance lawsuit or to take any other legal action authorized by law.

7:612. - Penalty for violations of Chapter 96.

Any person who violates a provision of this chapter shall be responsible for a civil infraction punishable by a civil fine of not more than $500.00, plus costs and all other remedies available by statute. Each day of violation shall be a separate violation.

Section 2. That a new section 7:613 be added to Chapter 96 of Title VII of the Code of the City of Ann Arbor to read as follows:

7:613. - Applications to State for Special Licenses.

A persons 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 3. This Ordinance shall take effect ten days after passage and publication.

As Amended and Approved at First Reading by Ann Arbor City Council on September 16, 2019.

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 October 7, 2019.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication in the Washtenaw Legal News on October 17, 2019.

Jacqueline Beaudry, Ann Arbor City Clerk

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