



RESOLUTION NO. 2017-269
November 28, 2017

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That an ordinance entitled "An ordinance to amend Chapter 7 "Medical Marijuana" of the Code of Ordinances of the City of Ypsilanti" be approved **Second and Final Reading.**

OFFERED BY: _____

SUPPORTED BY: _____

YES: NO: ABSENT: VOTE:



**CITY OF YPSILANTI
NOTICE OF ADOPTED ORDINANCE
Ordinance No. 1298**

An ordinance to amend Chapter 7 "Medical Marijuana" of the Code of Ordinances of the City of Ypsilanti

1. THE CITY OF YPSILANTI HEREBY ORDAINS that Chapter 7 "Medical Marijuana" of its Code of Ordinances be amended to read as follows:

Sec. 7-1. - Purpose.

The purpose of this article is to establish standards and procedures for the review and input of the City of Ypsilanti on the issuance, renewal and/or revocation of ~~medical marijuana licenses-permits for medical m~~Marijuana dispensaries and ~~medical marijuana growing/manufacturing f~~Facilities in order to:

- (1) Serve and protect the health, safety, and welfare of the general public;
- (2) Establish a set of rules and regulations which are fair and equitable for those interested in establishing ~~medical m~~Marijuana dispensaries and ~~medical marijuana growing/manufacturing f~~Facilities; and
- (3) To provide reasonable regulation pursuant to the city's general police power granted to cities by the Michigan Constitution of 1963 and the Home Rule City Act, MCL § 117.1 et seq., as amended.

Nothing in this ~~article~~Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of ~~m~~Marijuana not in strict compliance with applicable state law or local ordinance ~~the Act or the General Rules~~. Also, since federal law is not affected by state law or local ordinance ~~the Act or the General Rules~~, nothing in this ~~article~~Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. The Act ~~State law~~ does not, nor does local ordinance,

protect users, caregivers, or the owners of properties on which the medical use of marijuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Control Substances Act.

Sec. 7-2. - Definitions.

~~Words and terms used in this section have been previously defined in section 122-2 and include "medical marijuana dispensary," "medical marijuana growing/manufacturing facility" and "medical marijuana home occupation."~~

All of the words, terms, and phrases defined by the MMFLA, as amended, are adopted herein by reference. As used in this Chapter, they have the same meaning as provided in the MMFLA. The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

MMFLA means the Medical Marijuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 to 333.27801.

MMMA means the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL 333.26421 to MCL 333.26430.

MTA means the Marijuana Tracking Act, Public Act 282 of 2016, MCL 333.27901 to 333.27904.

Sec. 7-3. - Adoption of state rules and regulations.

All activities related to medical marijuana shall be in compliance with the General Rules of the Michigan Department of Community Health, ~~and the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL § 333.26421 et seq~~MMMA, the MMFLA, MTA, as well as any and all administrative rules or regulations contained or adopted under the authority therein.

Pursuant to the MMFLA, the City of Ypsilanti 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 122 of the Code of Ordinances for the City Ypsilanti, and all other applicable laws and ordinances:

- (1) Grower, including Class A, Class B, and Class C grower.
- (2) Processor.
- (3) Provisioning Center.

No later than February 15, 2018, all previous medical marijuana dispensaries and medical marijuana growing/manufacturing facilities licensed by the City of Ypsilanti previous to the adoption of the MMFLA are required to apply for a State Operating License to operate

in the City of Ypsilanti. Such a State Operating License must be issued on or before June 15, 2018. Likewise, all licenses issued by the City of Ypsilanti for medical marijuana dispensaries and medical marijuana growing/manufacturing facilities current and valid as of December 31, 2017, shall be continued under the same rules and regulations as issued until June 15, 2018, the issuance of a permit under this Chapter, or the denial of an application under this Chapter, whichever occurs first.

Sec. 7-4. - License-Permit required.

(a) ~~No person shall own, or operate, or maintain a medical mMarihuana dispensary and medical marijuana growing/manufacturing fFacility~~ in the city without first applying for and receiving a licensepermit from the city clerk's office.

(b) Any medical marijuana dispensary or medical marijuana growing/manufacturing facility licensed by the City of Ypsilanti and opened prior to the adoption of the ordinance from which this article was derived MMFLA must file for a license-permit under this Chapter within 30 days of the adoption of the ordinance from which this article was derived no later than February 1, 2018. No other applications will be accepted by the city until 45 days after the effective date of this article March 1, 2018. Within 30 days after an pre-existing application is denied, the pre-existing dispensary or growing/manufacturing facility shall discontinue all operation unless the building or other code official determines it must be closed sooner for safety reasons.

(c) For the purposes of the permit required by this Chapter, a Processor and Grower are treated as one permit. More than one State Operating License(s) required for the operation of such may be combined at the same location under one permit.

(ed) The number of licensespermits issued and renewed in any year shall be capped at sixseven for medical marijuana dispensaries Provisioning Centers and three for medical marijuana growing/manufacturing facilities Growers/Processors.

(de) Effective June 15, 2018, aAny licensepermit shall automatically terminate and become void if the licensed-use permitted by this Chapter stops for 90 days or more.

(ef) A licensepermit shall be issued or renewed upon payment of the required fee and submission of a completed application in compliance with the provisions of this articleChapter, and compliance with all provisions and requirements of this articleChapter, the MMFLA, and the MTA. Application to renew a license to operate a medical marijuana dispensary or medical marijuana growing/manufacturing facility permit under this Chapter shall be filed at least 30 days prior to the date of expiration. Such renewal shall be annual and shall be accompanied by the annual fee.

(fg) Every applicant shall pay a fee at the time of the application for an initial or renewal licensepermit, which fee shall be set by council resolution. Said fee is non-refundable if the application is reviewed.

(gh) The licensepermit requirements set forth in this articleChapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.

(hi) The issuance of any ~~license~~permit pursuant to this ~~article~~Chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana, possession of drug paraphernalia, or presence in places where drugs are being used, stored, or kept.

(ij) All ~~licensed medical m~~Marihuana dispensaries and ~~medical marijuana growing/manufacturing f~~Facilities shall have a sign measuring at least 11 × 17 inches installed and maintained in a conspicuous location visible to all persons entering the premises located inside the building that reads as follows:

THE MICHIGAN MEDICAL MARIHUANA ACT ACKNOWLEDGES THAT "FEDERAL LAW CURRENTLY PROHIBITS ANY USE OF MARIHUANA EXCEPT UNDER VERY LIMITED CIRCUMSTANCES." SEE MCL 333.26422(c). IF YOU HAVE ANY QUESTIONS OR CONCERNS PLEASE CONSULT WITH YOUR ATTORNEY.

Sec. 7-5. - Application.

Every applicant for a ~~license to maintain, operate or conduct a medical marijuana dispensary or medical marijuana growing/manufacturing facility outside of a home occupation (see section 122-2)~~permit under this Chapter, shall file an application under notarized oath with the city clerk's office upon a form provided by the city, which shall fulfill all of the requirements indicated on the form, including but not limited to:

(1) The name, age, and address of applicant and operator:

- a. Name, age, and address of the applicant and all partners of the applicant, including proof that the applicant and/or proposed employees are at least 21 years of age;
- b. Name, age, and address of the operator of the Marihuana Ffacility in cases where this differs from the applicant;
- c. In the case of corporations, partnerships, non-profit organizations, or other business types, the applicant shall be the highest level official or employee of the entity such as, board president, chief executive officer, executive director, or comparable position;
- d. If the applicant is a corporation, a copy of the articles of incorporation and current corporation records disclosing the identity and residential addresses of all directors, officers, and shareholders. Include the address of the corporation itself, if different from the address of the ~~medical m~~Marihuana dispensary or medical marijuana growing/manufacturing fFacility, and the name and address of the resident agent for the corporation;
- e. If the applicant is a partnership, the names and residence address of each of the partners and the partnership itself, if different from the address of the ~~medical m~~Marihuana dispensary or medical marijuana growing/manufacturing fFacility, and the name and address of the resident agent;

- f. Photo identification of the applicant and operator and/or driver's license; and
- g. The ~~medical marijuana facility~~ professional licensing history of the applicant; whether such person has had a professional~~business~~ license issued, revoked, or suspended. ~~If the applicant has had a professional license revoked or suspended,~~ the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation; ~~and.~~
- h. ~~A copy of the application for the State Operating License~~ Proof that the applicant and/or its employees are primary caregivers if required under the Michigan Medical Marihuana Act.

(2) The location and mailing address and all telephone numbers where the business is to be conducted, and the name and address of the owner, if different from the holder of the license~~permit~~, and written evidence of the applicant's right to possession of the premises.

(3) An area map, drawn to scale, indicating within a radius of 1,000 feet from the boundaries of the proposed Marihuana dispensary ~~or growing/manufacturing f~~Facility site, the proximity of the site to any school, ~~or existing Marihuana dispensary, or existing growing f~~Facility and zoning permit or similar clearance from the zoning administrator verifying the proposed use of the location at which the license will be utilized is in compliance with the zoning ordinance.

(4) A certificate of occupancy or similar clearance from the building department verifying the structure and premises at which the license~~permit~~ will be utilized is in compliance with building, property maintenance, and all other applicable local code provisions. The certificate of occupancy is required within 60 days of the license~~permit~~ being issued, and is required before opening of the Marihuana Ffacility.

(5) A statement that the applicant will not violate any of the laws of the State of Michigan or the ordinances of the City of Ypsilanti in conducting the business in which the license~~permit~~ will be used, and that a violation on the premises may be cause for objecting to renewal of the license~~permit~~, or for requesting revocation of the license~~permit~~.

(6) A signed release included with the application form permitting the police department to perform a criminal background check to ascertain whether the applicant and operator named on the application have been convicted of a felony.

(7) A description of the security plan for the facility, including, but not limited to, any lighting alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the Marihuana dispensary ~~or growing/manufacturing f~~Facility and premises.

(8) Proof of insurance for fire damage in the amount of the value of the premises and liability insurance with minimum limits of \$500,000.00.

(9) Description of the process for ~~tracking medical marijuana quantities and inventory controls including medical marijuana products received from outside sources, as well~~

~~as caregivers/patients on the premises (see section 122-814(8) or 122-815(8) for more details) and proof of compliance with the Statewide Monitoring System as required by the MMFLA and MTA.~~

~~Dispensaries:~~

~~Description of an operating plan for the dispensary including the following:~~

~~(10) A description of the products and services to be provided by the Marihuana Facility dispensary, including retail sales of food and/or beverages, if any, and any related accommodations or facilities;~~

~~(11) Detailed description of all marijuana storage facilities.~~

~~Growing/manufacturing facilities:~~

~~(12) Description of the process for tracking medical marijuana quantities and inventory controls, including on-site cultivation and processing;~~

~~(13) Detailed description of all medical marijuana storage facilities and equipment including enclosed, locked facilities, if any, as may be required by the act.~~

Sec. 7-6. - Approval of application.

The city manager or designee may issue a ~~license~~permit for a ~~medical marijuana dispensary or medical marijuana growing/manufacturing facility~~under this Chapter if inspections for safety, zoning compliance, criminal history background checks, and all other information available to the city verify that the applicant has submitted a full and complete application, paid the appropriate fee, ~~and~~ has made improvements to the business location consistent with the application, and is prepared to operate the business with in compliance with this Code and any other applicable law, rule, or regulation. The city manager or designee will deny any application that does not meet the requirements of this ~~article~~Chapter or any other applicable law, rule, or regulation or that contains any false or incomplete information.

Sec. 7-7. - Violations and penalties.

Any person who is found to be in violation of this article shall be responsible for a misdemeanor and shall be subject to a fine of up to 90 days in jail and/or not more than \$500.00.

Sec. 7-8. - Conditions necessary.

No ~~permit~~license to contact a ~~medical marijuana dispensary or medical marijuana growing/manufacturing facility~~ shall be issued under this Chapter unless the city confirms the proposed ~~medical m~~Marijuana f~~Facility~~ complies with all of the following minimum requirements:

(1) All provisions of the city building, fire, electrical, and health codes have been fulfilled.

(2) ~~All relevant provisions of section Chapter 122-814 for medical marijuana dispensaries and section 122-815 for medical marijuana growing/manufacturing facilities of this Code~~ have been fulfilled.

(3) The applicant and operator shall not have any felony convictions.

(4) The applicant or business has no outstanding back taxes, fines, fees, or liens owed to the city.

(5) A business license has been obtained from the city assessor.

Sec. 7-9. - Non-renewal or revocation.

The city manager may choose to not renew or revoke a ~~license~~permit based on any of the following:

(1) A failure to meet the conditions or maintain compliance with the standards established by this ~~Chapter~~division in reference to applications for a new ~~license~~permit or the renewal of an existing ~~license~~permit;

(2) One or more violations of any city ordinance on the premises;

(3) Maintenance of a nuisance on the premises;

(4) A demonstrated history of excessive calls for public safety (police, fire, and EMS) originating from the premises, being three or more calls in any 30-day period; or

(5) Nonpayment of real and/or personal property taxes, fines, fees, or liens owed to the city.

Sec. 7-10. - Appeal process.

If an applicant or ~~licensee~~permitted Marihuana Facility chooses to appeal denial of a ~~license~~permit or revocation of a ~~license~~permit, ~~they applicant or licensee can enter in a written appeal to the clerk's office using a city generated form including the appellant's signature, the requirement or decision from which the appeal is made, and shall state the specific grounds on which the appeal is based. The applicable fee shall be submitted with the notice of the appeal; such fee shall be nonrefundable. Appeals shall be filed within 30 days of the decision in question. City council shall consider the appeal within 30 days of receipt of the appeal.~~

Sec. 7-11 – General provisions.

(1) The provisions of this Chapter apply to all Marihuana Facilities, whether operated for profit or not for profit.

(2) The permit requirements in this Chapter are 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 by Marijuana Facilities.

(3) This Chapter does not pertain to medical marijuana home occupations under the MMA or Chapter 122 of this Code.

- (4) A permit issued under this Chapter is valid only for the location of the Marihuana Facility and type of Marihuana Facility that is listed on the permit application and is valid only for the operation of the permitted Marihuana Facility at that location by the permit applicant.
- (5) A permit issued under this Chapter is valid only if the permit holder also holds a valid current State Operating License and a copy of the valid current license and application for license has been provided to the city clerk by the license holder and is in compliance with all other requirements of this Chapter.
- (6) The revocation, suspension, and placement of restrictions by the state on a State Operating License apply equally to a permit issued by the city.
- (7) For the purposes of application of zoning requirements to facilities permitted under this Chapter, the provisions relating to Medical Marijuana Dispensaries (as defined by Chapter 122 of this Code) apply to Provisioning Centers and the provisions relating to Medical Marijuana Growing/Manufacturing Facilities (as defined by Chapter 122 of this Code) relate to Growers and Processors. The corresponding standards and requirements for the relevant Marihuana Facilities as provided in Chapter 122 of this Code are adopted in this Chapter as if fully stated herein.

2. Severability. If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

3. Repeal. All other Ordinances inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, hereby repealed.

4. Savings Clause. The balance of the Code of Ordinances, City of Ypsilanti, Michigan, except as herein or previously amended, shall remain in full force and effect. The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

5. Copies to be available. Copies of the Ordinance are available at the office of the city clerk for inspection by, and distribution to, the public during normal office hours.

6. Publication and Effective Date. The City Clerk shall cause this Ordinance, or a summary of this Ordinance, to be published according to Section 11.13 of the City Charter. This Ordinance shall become effective after publication at the expiration of 30 days after adoption.

MADE, PASSED AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS _____ DAY OF _____, 2017.

Frances McMullan, City Clerk

Attest

I do hereby confirm that the above Ordinance No. _____ was published according to Section 11.13 of the City Charter on the _____ day of _____, 2017.

Frances McMullan, City Clerk

CERTIFICATE OF ADOPTING

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the City Council held on the _____ day of _____, 2017.

Frances McMullan, City Clerk

Notice Published: _____

First Reading: _____

Second Reading: _____

Published: _____

Effective Date: _____