

AN ORDINANCE TO ADD A NEW CHAPTER 71 TO TITLE VI (FOOD AND HEALTH) OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor Ordains:

Section 1. That a new Chapter 71 be added to Title VI of the Code of the City of Ann Arbor to read as follows:

CHAPTER 71. MEDICAL MARIJUANA BUSINESS LICENSES FOR CULTIVATION FACILITIES AND DISPENSARIES AND MEDICAL MARIJUANA HOME OCCUPATION LICENSES

6:413. Legislative Intent.

The City intends to license and regulate medical marijuana cultivation facilities, dispensaries, and home occupations to the extent they are permitted under the Michigan Medical Marijuana Act. The City does not intend that licensing and regulation under this chapter be construed as a finding that such businesses are legal under state or federal law. Although some specific uses of medical marijuana are allowed by the Michigan Medical Marijuana 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. By requiring a license and compliance with requirements as provided in this chapter, the City intends to protect to the extent possible the public health, safety and welfare of the residents of and visitors to the City, including but not limited to medical marijuana patients, from harm that may result from the activities of persons who unilaterally or on the advice of their own attorney determine that they may legally operate a medical marijuana cultivation facility, dispensary, or home occupation.

6:414. Definitions.

- (a) All words and phrases used in this chapter shall have the same meaning as defined in Chapter 55 (Zoning), Section 5:50.1 (Regulations Concerning Medical Marijuana).
- (b) *Cultivation facility* means a medical marijuana cultivation facility.
- (c) *Dispensary* means a medical marijuana dispensary.
- (d) *Home Occupation* means a medical marijuana home occupation.
- (e) *Physician* means an individual licensed as a physician under Part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under Part 175 of the public health code.

6:415. License Required, Number of Licenses Available, Eligibility.

- (1) No person shall operate a cultivation facility, dispensary, or home occupation at a location for which an annual license as provided for in this chapter has not been issued.
- (2) A cultivation facility, dispensary, or home occupation shall not be eligible for a license if any person required under this chapter to be named on the application has been convicted of a misdemeanor involving any controlled substance or any felony under Michigan law, or the law of any other state or the United States.
- (3) The license requirement in this chapter applies to all cultivation facilities, dispensaries, or home occupations that exist on the effective date of this chapter or are established after the effective date of this chapter.
- (4) There shall be no more than fifteen (15) licenses total made available for cultivation facilities and dispensaries and no limit on the number of licenses available for home occupations.
- (5) The license requirement set forth in this chapter 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.
- (6) The issuance of any license pursuant to this 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.

6:416. General Provisions.

- (1) No license issued under this chapter may be transferred or assigned, and no license is valid for any location other than the location specified in the license.
- (2) A cultivation facility or dispensary license issued by the City under this chapter, including the name and contact information for the owner(s) and business manager(s), shall be conspicuously posted in the cultivation facility or dispensary where it is easily open to public view.
- (3) Acceptance of a license from the City under this chapter constitutes consent by the licensee, owners, managers and employees to permit the city administrator or designee to conduct routine inspections of the licensed cultivation facility, dispensary, or home occupation to ensure compliance with this chapter.

6:417. Application for and Issuance of New Annual License or Renewal of Existing License for Medical Marijuana Dispensaries and Medical Marijuana Cultivation Facilities.

- (1) A dispensary or cultivation facility that commenced operation prior to passage of the

moratorium by City Council on August 5, 2010, shall have until sixty (60) days after the effective date of this chapter to submit an application for a new annual license. No other applications will be accepted by the City until seventy-five (75) days after the effective date of this chapter. The cultivation facility or dispensary may continue to operate pending final action on the application unless the Building Official determines that it must be closed for safety reasons. Within 60 days after an application is denied, the cultivation facility or dispensary shall discontinue all operation unless the Building Official determines it must be closed sooner for safety reasons.

(2) An application for a new annual license or the renewal of an existing license for a cultivation facility or dispensary, 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) If the cultivation facility or dispensary commenced operation prior to passage of the moratorium by City Council on August 5, 2010, then proof of the date on which cultivation facility or dispensary commenced operation shall be provided.
- (b) The address of the cultivation facility or dispensary and any other contact information requested on the application form.
- (c) The name and address of all owner of the real property where the cultivation facility or dispensary is located.
- (d) Name, street address, and other contact information of all owners of the dispensary or cultivation facility and, if the owner is a corporation, limited liability company, partnership, or sole proprietor with an assumed name, of all directors, officers, members, partners, and individuals, all of whom are considered collectively to be the applicant for the license.
- (e) Name and address of all business managers.
- (f) Name and address of all physicians who will render services on the premises of the cultivation facility or dispensary.
- (g) A signed release on a form included with the application form permitting the Ann Arbor Police Department to perform a criminal background check to ascertain whether any person named on the application has been convicted of a misdemeanor involving any controlled substance or any felony under Michigan law, or the law of any other state or the United States.
- (h) Proof of applicant's ownership or legal possession of the premises and, if the applicant does not own the premises, the signatures of all owners on the application indicating that the owners support issuance of a license.

- (i) A valid and current certificate of occupancy issued by the Building Official after all necessary inspections have been conducted, which may include but are not limited to electrical inspection, plumbing inspection, and mechanical inspection.
- (j) A description of the products and services to be provided.
- (k) Proof that a sign measuring at least twenty-four (24) inches wide and at least eight (8) inches high has been installed in a location visible to all persons entering the premises 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.**

- (l) Proof that the following security measures have been installed on the premises:
 - (i) security cameras to monitor all areas of the licensed 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 seventy-two hours in a secure off-site location.
 - (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.
- (m) For medical marijuana cultivation facilities, a certificate signed by a qualified professional indicating that equipment necessary to handle heating, ventilation, and air balance requirements has been installed to prevent the growth of harmful mold or other conditions harmful to individuals inside the facility.
- (n) The application fee, which shall be determined by resolution of the City Council.

(3) Approval of Application. The city administrator or designee may issue a license for a cultivation facility or dispensary if inspections for safety and zoning compliance, criminal history background checks of all persons named on the application, and all other information available to the City verify that the applicant has submitted a full and complete application, has made improvements to the business location consistent with the application and is prepared to operate the business with owners and managers as set forth in the application, all in compliance with this Code and any other applicable law, rule or regulation. The city administrator or designee will deny any application that does not meet the requirements of this chapter or any other applicable law, rule or regulation or that contains any false or incomplete information.

6:418. Application for and Issuance of New Annual License or Renewal of Existing License for Medical Marijuana Home Occupations.

(1) An application for a new annual home occupation license or the renewal of an existing home occupation license 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 not limited to:

- (a) Name and contact information of the applicant for the license, who must be a legal residential occupant of the premises, and of all owners of the single-family dwelling.
- (b) Proof that the applicant is authorized as a caregiver under state law.
- (c) The number of plants that the applicant will cultivate on the premises.
- (d) Proof of applicant's ownership or legal possession of the premises and, if the applicant does not own the premises, the signatures of all owners on the application indicating that the owners support issuance of a license..
- (e) A signed release on a form, which is part of the application package, authorizing and requesting the Ann Arbor Police Department to perform a criminal background check to ascertain whether the applicant and all owners named on the application has been convicted of a misdemeanor involving any controlled substance or any felony under Michigan law, or the law of any other state or the United States.
- (f) For home occupations in which more than twenty-four (24) plants are or will be cultivated, only, a routine safety inspection by the Building Official, and if required by the Building Official after conducting the inspection, a certificate signed by a qualified professional indicating that equipment necessary to handle heating, ventilation, and air balance requirements has been installed to prevent the growth of harmful mold or other conditions harmful to individuals inside the dwelling.
- (g) The application fee, which shall be determined by resolution of the City Council.

(2) Approval of Application. The city administrator or designee may issue a home occupation license if the inspections for safety (if required) and zoning compliance, criminal history background checks of all persons named on the application, and all other information available to the City verify that the applicant has submitted a full and complete application and is prepared to operate the home occupation as set forth in the application, all in compliance with this Code and any other applicable law, rule or regulation. The city administrator or designee will deny any application that does not

meet the requirements of this chapter or any other applicable law, rule or regulation or that contains any false or incomplete information.

6:419. Conduct of Business at Cultivation Facility or Dispensary and Operation of Home Occupation.

(1) All marijuana in any form kept at the location of the cultivation facility, dispensary, or home occupation shall be kept within an enclosed, secured building and shall not be visible from any location outside of the building.

(2) Cultivation facilities and dispensaries shall be closed for business, and no sale or other distribution of marijuana in any form shall occur upon the premises or be delivered from the premises, between the hours of 9:00 p.m. and 7:00 a.m.

(3) No more marijuana than is permitted under the Michigan Medical Marijuana Act shall be kept on the premises of a cultivation facility, dispensary, or home occupation.

(4) All marijuana delivered to a patient shall be packaged and labeled as provided in this chapter. The label shall include:

- (a) the name of the person to whom it is being delivered;
- (b) the name of the business delivering the marijuana;
- (c) that the package contains marijuana;
- (d) the date of delivery, weight, type of marijuana and dollar amount or other consideration of being exchanged in the transaction; and,
- (e) the warning that:

THIS PRODUCT IS MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY OR EFFICACY. THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE INGESTION OR USE OF THIS PRODUCT.

(5) A cultivation facility, dispensary, or individual licensed to conduct a home occupation shall report all criminal activities to the Ann Arbor Police Department immediately upon discovery.

(6) No person shall fail to consent to the entry into a cultivation facility, dispensary, or home occupation 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 two (2) or more days before the date of the inspection or sent by first class mail to the address of the premises four (4) or more calendar days before the date of the inspection.

(7) No person shall fail to maintain all security measures required in this chapter in good working order or fail to keep the premises monitored and secured twenty-four hours per day.

(8) All marijuana in any form provided to patients at or by a dispensary, cultivation facility, or home occupation, shall have been cultivated, manufactured, and packaged in the state of Michigan.

(9) A cultivation facility, dispensary, or home occupation shall keep records of the persons from whom they received marijuana in any form, and shall make the records available to the City for review upon request.

6:420. Prohibited Acts.

It shall be unlawful for any person to:

- (a) Violate any provision of this chapter or any condition of an approval granted pursuant to this chapter.
- (b) Produce, distribute or possess more medical marijuana than allowed by any applicable law.
- (c) Produce, distribute or possess medical marijuana in violation of this chapter or any other applicable law.
- (d) Make any changes or allow any changes to be made to the cultivation facility, dispensary, or home occupation as represented in the application or to the structure or location at which the business is operating without applying for and being issued a new license.

6:421. License Revocation.

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

- (1) Conviction of any person required to be named on the application of the license of any provision of this chapter;
- (2) Misrepresentation or omission of any material fact, or false or misleading information, on the application, or any other information provided to the City related to the medical marijuana business;
- (3) Conviction of any person required to be named on the application of a crime which, if occurring prior to submittal of the application, could have been cause for denial of the license application;
- (4) Allowing distribution of medical marijuana, including but not limited to delivery to a patient, in violation of this chapter or any other applicable law, rule or regulation;

- (5) Allowing the operation of a cultivation facility, dispensary, or home occupation in violation of the specifications of the license application, any conditions of approval by the City or any other applicable law, rule or regulation.
- (6) Temporary or permanent closure, or other sanction of the business, by the City, or by the County or State Public Health Department or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the business or any other applicable law.

6:422. Revocation Not Exclusive Penalty.

Nothing in this chapter shall be deemed to prohibit the city administrator or designee from imposing other penalties authorized by this code or other ordinance of the city, including filing a complaint in a court of competent jurisdiction.

Section 2. The City Council shall review the operation of the provisions of this section and recommend changes, if any, that Council deems appropriate on or before January 31, 2012, or such other date as Council may set by resolution.

Section 3. That this Ordinance shall take effect on the tenth day following legal publication.