



Ordinance 1339

An Ordinance to Amend Ypsilanti City Code, Chapter 7, Medical Marijuana, to Allow for the Transfer of Local Permits for Medical Marijuana Facilities.

1. THE CITY OF YPSILANTI ORDAINS that Chapter 7, Medical Marijuana, Section 7-4 through Section 7-8, in the Ypsilanti City Code be amended to read as follows:

CHAPTER 7 – MEDICAL MARIJUANA

Sec. 7-4. – Permit required.

- (a) No person shall own, operate, or maintain a ~~marihuana~~ marijuana facility in the city without first applying for an receiving a permit ~~from~~ through the City Clerk.
- (b) Any medical marijuana ~~dispensary~~ provisioning center or medical marijuana growing/manufacturing facility licensed by the City of Ypsilanti and opened prior to the adoption of the MMFLA must file for a permit under this chapter no later than February 1, 2018. No other applications will be accepted by the city until March 1, 2018. Within 30 days after a 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.
- (d) The number of permits issued and renewed in any year shall be capped at seven for provisioning centers and three for growers/processors.
- (e) Effective June 15, 2018, any permit shall automatically terminate and become void if the use permitted by this chapter stops for 90 days or more.

- (f) A permit shall may be issued or renewed, or its transfer authorized, by the City Clerk upon payment of the required fee and submission of a completed application in compliance with the provisions of this chapter, and compliance with all provisions and requirements of this chapter, the MMMA, the MMFLA, and the MTA. ~~Application~~ An application to renew a 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. A permit-transfer application shall be required of
- (1) a medical marijuana operator who will be the transferee of both an existing state operating license and an existing city permit;
 - (2) a medical-marijuana operator who will be the recipient of a new state operating license and the transferee of an existing city permit;
 - (3) a permit holder who will continue operation of an existing medical marijuana facility if any of the following will occur:
 - i. The applicant or operator name on the permit holder's state operating license changes.
 - ii. Any change in any interest in a city permit, including, but not limited to, any change in ownership interest of the permit holder, including change of owners, stockholders, partners or members, and any change in the management of the permit holder, including change of directors, officers or managing members or partners.
- (g) Every applicant shall pay a fee at ~~the~~ such time ~~of the~~ as the city reviews its application for an initial ~~or renewal~~ permit, renewal of a permit, or transfer of a permit, which fee shall be set by council resolution. Said fee is non-refundable if the application is reviewed.
- (h) The permit requirements 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.
- (i) The issuance of any permit 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, possession of drug paraphernalia, or presence in places where drugs are being used, stored, or kept.
- (j) All ~~marihuana~~ marijuana 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.

(a) Initial permit. Every applicant for ~~a~~ an initial permit under this chapter shall file an application under ~~notarized~~ oath with the City Clerk 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)~~

(i.) 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)~~

(ii.) Name, age, and address of the operator of the ~~marihuana~~ marijuana facility in cases where this differs from the applicant;

~~(c)~~

(iii.) 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)~~

(iv.) If the applicant is a corporation, a copy of the articles of incorporation and current corporation records disclosing the ~~identity~~ identities, ages, and residential addresses of all directors, officers, and shareholders. Include the address of the corporation ~~itself~~ office, if different from the address of the ~~marihuana~~-marijuana facility, and the name and address of the resident agent for the corporation;

(v.) If the applicant is a limited liability company, a copy of the LLC operating agreement and current company records disclosing the identities, ages, and residential addresses of all officers, directors (if any), and members. Include the address of the company office, if different from the address of the marijuana facility, and the name and address of the managing member for the company;

~~(e)~~

(vi.) If the applicant is a partnership, the names, ages, and residence address of each of the partners and the partnership ~~itself~~ office, if

different from the address of the ~~marihuana~~ marijuana facility, and the name and address of the resident agent;

~~(f)~~

(vii.) Photo identification of the applicant and operator and/or driver's license; and

~~(g)~~

(viii.) The professional licensing history of the applicant; whether such person has had a professional 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.

~~(h)~~

(ix.) A copy of the application for the state operating license.

- (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 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~~ marijuana facility site, the proximity of the site to any school or existing ~~marihuana~~ marijuana 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 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 permit being issued, and is required before opening of the ~~marihuana~~ marijuana facility.
- (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 permit will be used, and that a violation on the premises may be cause for objecting to renewal of the permit, or for requesting revocation of the 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~~ marijuana 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~~ A description of the process for and proof of compliance with the statewide monitoring system as required by the MMFLA and MTA.
- (10) A description of the products and services to be provided by the ~~marihuana~~ marijuana facility, including retail sales of food and/or beverages, if any, and any related accommodations or facilities.
- (11) A description of the facility's safety and quality-control procedures.
- (11)
- (12) ~~Detailed~~ A detailed description of all marijuana storage facilities.
- (13) A detailed description of the facility's procedures for storage and point of sale.

(b) Renewal of permit. Every applicant for the renewal of a permit under this chapter shall file an application under oath with the City Clerk upon a form provided by the city, which shall fulfill all of the requirements indicated on the form and not waived under subsection (c) of this section, including, but not limited to:

- (1) Items (1) through (6), (8) through (10), and (12), under subsection (a) of this section.
- (2) A detailed description of any changes to the facility's security plan since the applicant's most recent application.
- (3) A detailed description of any crimes or attempted crimes, reported or unreported, that have occurred on-site at the facility or at another location but in connection with the activities of the facility, since the applicant's most recent application.
- (4) A detailed description of any changes to the facility's safety or quality-control procedures since the applicant's most recent application.
- (5) A detailed description of any changes to the facility's storage or point-of-sale procedures since the applicant's most recent application.

(c) Transfer of permit. State approval of the transfer of a state operating license or issuance of a new state operating license shall be a prerequisite for any transfer of a city permit except under section 7-4(f)(3)(ii) of this chapter. Every applicant for the transfer of an existing permit under this chapter shall file an application under oath, by both the transferor and transferee, with the City Clerk upon a form provided by the City, which shall include all of the following:

- (1) The names of the transferor and transferee;
- (2) All information required for an application for a new permit by the proposed transferee;
- (3) Any materials submitted at the state level during the approval process for the transfer of a state operating license.
- (4) The City Clerk may waive any minor irregularities or incompleteness of an application for the transfer of an existing permit to the extent that a sufficiently thorough review and investigation of the application and parties can be made in a timely manner.

Sec. 7-6 – Approval of application.

The City Clerk may issue, renew, or authorize the transfer of a permit 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, has made improvements to the business location consistent with the application, and is prepared to operate the business within 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 chapter or any other applicable law, rule, or regulation or that contains any false or incomplete information. In evaluating an application for an initial permit, renewal of a permit, or transfer of an existing permit, city staff may consider whether the following factors apply:

- (1) All information in the application is true and the application contains no errors.
- (2) The application is informative and contains no omissions. The components of the application provide enough detail for city staff to thoroughly evaluate the strength of the application.
- (3) On its face, the application is organized and well thought out.
- (4) The application evidences the applicant's intention and ability to comply with all provisions and requirements of this chapter, the MMMA, the MMFLA, the MTA,

and other applicable state and local laws. Where necessary, the application explains how the facility's policies ensure compliance.

- (5) The background check evidences the applicant's suitable character and fitness.
- (6) For application for an initial permit, the facility's security plan is detailed and provides reasonable assurance that the facility's design and standard operating procedures deter crime.
- (7) For applications for an initial permit, the application describes safety procedures that provide reasonable assurance of the safety of patients and employees.
- (8) For applications for an initial permit, the application describes storage design and point-of-sale procedures that provide reasonable assurance that marijuana products are stored and sold safely and securely.
- (9) For applications for the renewal of an existing permit, the facility has not made any changes to its security plan that diminish deterrence of crime.
- (10) For applications for the renewal of an existing permit, the facility has not made any changes to its safety procedures that diminish the safety of patients or employees.
- (11) For applications for the renewal of an existing permit, the facility has not made any changes to its storage design, storage procedures, or point-of-sale procedures that diminish the ability to track or safely store marijuana products.
- (12) For applications for the transfer of an existing permit, the proposed transfer would not drastically change the status quo for the residents of Ypsilanti with respect to their experience of the presence of medical marijuana facilities in their city, with particular regard for:
 - (i.) The appearance of buildings, particularly in the downtown area and all historic districts.
 - (ii.) Signage visible to the public.
 - (iii.) The effect on local businesses.

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 shall be issued, renewed, or transferred under this chapter unless the city confirms the proposed marijuana 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 chapter 122 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.
- (6) A state operating license has been issued or pre-approved for the operator.

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. 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.

5. Publication and Effective Date. The City Clerk shall cause this Ordinance, or a summary of this Ordinance, to be published by printing the same in the Ann Arbor News. 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 16th DAY OF July, 2019.

Andrew Hellenga, City Clerk

ATTEST

I do hereby confirm that the above Ordinance No. 1339 was published in the Ypsilanti City Website on the 20th day of June, 2019.

Andrew Hellenga, 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 16th day of July, 2019.

Andrew Hellenga, City Clerk

Notice Published: June 20, 2019

First Reading: July 2, 2019

Second Reading: July 16, 2019

Published: July 25, 2019

Effective Date: August 15, 2019