



**CITY OF YPSILANTI
NOTICE OF ADOPTED ORDINANCE
Ordinance No. 1344**

1. **THE CITY OF YPSILANTI HEREBY ORDAINS** That

the Ypsilanti City Code is hereby amended by adding a new Chapter 8 – ADULT USE - RECREATIONAL MARIJUANA, Which Chapter reads as follows:

Chapter 8 - Adult-use Marijuana

Sec. 8-1. - Purpose.

The purpose of this ordinance is to establish standards and procedures for the review and input of the City of Ypsilanti on the participation in the adult-use marijuana industry in accordance with the Michigan Regulation and Taxation of the Marijuana Act, *Initiated Law 1 of 2018*, MCL 333.27951et sec., and in accordance with the act:

- a) establish standards and procedures for the review and input of the City of Ypsilanti on the issuance, renewal and/or revocation of permits for marijuana establishments within the boundaries of the City,
- b) place limits on the number of marijuana establishments within the City,
- c) regulate the time place and manner of operation of marijuana establishments within the City,
- d) regulate the production, manufacture, sale or display of marijuana accessories,
- e) authorize the sale of marijuana for consumption in designated areas that are not accessible to persons under 21 years of age, or special events in limited areas and for a limited time,
- f) designate for a civil infraction for a violation of the ordinance by a marijuana establishment and provide a penalty of civil fine not more than \$500,
- g) require a City permit for a marijuana establishment within the city and impose qualifications for such permit that do not conflict with state law,
- h) charge an annual fee for marijuana establishments of not more than \$5,000 to help to defray application, administrative and enforcement costs associated with the operation of the marijuana establishment, all 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 marijuana 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 Section 117.1 et seq., as amended, and to comply with state law, especially the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.

Nothing in this 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 civil or criminal prosecution with any federal law or regulation, or from having property seized by federal authorities under federal law.

Sec. 8-2. - Definitions.

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

a) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

(b) "Department" means the department of licensing and regulatory affairs.

(c) "Marihuana" means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this act, marihuana does not include:

(1) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

(2) industrial hemp; or

(3) any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

(d) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department.

(h) "Marihuana grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

(i) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

(j) "Marihuana microbusiness" means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

(k) "Marihuana processor" means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

(l) "Marihuana retailer" means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

(m) "Marihuana secure transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

(n) "Marihuana safety compliance facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

(o) "Process" or "Processing" means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

(p) "State license" means a license issued by the department that allows a person to operate a marihuana establishment.

(q) "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27051 et seq.

(r) "Marijuana" has the same meaning as "marihuana" under the MRTMA.

Sec. 8-3

Sec. 8-4. Requirements and procedures for marihuana establishments.

A Marihuana Establishment in the City of Ypsilanti must acquire a City permit before operation or doing any business.

Sec. 8-4.1. - Permit requirements

- (a) No person shall own or operate a marijuana establishment in the City without first applying for and receiving a permit from the city clerk's office
- (b) Licenses are transferrable upon state approval and payment of the transfer fee.
- (c) Permit shall be valid for a period of one year, from January 1 to December 31
- (d) A Permit shall be issued or renewed upon payment of the required fee and submission of a completed application in compliance with the provisions of this article, and compliance with all provisions and requirements of this article. Application to renew a permit 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.
- (e) Every applicant shall pay a fee at the time of the application for an initial or renewal permit, or transfer of permit, which fee shall be set by council resolution. Said fee is non-refundable if the application is reviewed.
- (f) 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.
- (g) 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 civil or criminal liability under federal law.

Pursuant to the MRTMA, the City of Ypsilanti authorizes the operation in the city of the following types and number of marijuana facilities, provided they possess a state operating license issued under the MRTMA and they comply with the additional requirements of this chapter, chapter 122 of this Code, and all other applicable laws and ordinances:

- Marijuana retailer: maximum 10 permits, including 7 Medical Marijuana Facilities (including 3 social equity, see Sec. 8-5.1)
- Marijuana safety compliance facility: no maximum
- Marijuana secure transporter: no maximum
- Marijuana processor: no maximum
- Marijuana microbusiness: no maximum (including 3 social equity, see Sec. 8-5.1)
- Class A marijuana grower authorizing cultivation of not more than 100 marijuana plants: no maximum
- Class B marijuana grower authorizing cultivation of not more than 500 marijuana plants: no maximum
- Class C marijuana grower authorizing cultivation of not more than 2,000 marijuana plants: no maximum
- excess marijuana grower: one
- designated consumption establishment: no maximum

Sec. 8-4.2. - Application.

Every applicant for a marijuana establishment must file an application under 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:

- (a) The name, age, and address of applicant and operator
 - 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.
 - ii. Name, age and address of the operator of the facility in cases where this differs from the applicant.
 - 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.
 - iv. 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 Marijuana establishment and the name and address of the resident agent for the corporation.
 - v. 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 Marijuana dispensary or Marijuana growing/manufacturing facility, and the name and address of the resident agent.
 - vi. Photo identification of the applicant and operator and/or driver's license
- (b) 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.

- (c) An area map, drawn to scale, indicating within a radius of one thousand feet (1,000) from the boundaries of the proposed dispensary or growing/manufacturing facility site, the proximity of the site to any school, existing dispensary, or existing growing facility 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.
- (d) 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 license being issued, and is required before opening of the facility.
- (e) 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 will be used, and that a violation on the premises may be cause for objecting to renewal of the license, or for requesting revocation of the license.
- (f) A copy of state license approval.
- (g) 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 dispensary or growing/manufacturing facility and premises.
- (h) Proof of insurance for fire damage in the amount of the value of the premises and liability insurance with minimum limits of \$500,000.
- (i) Description of the process for tracking marijuana quantities and inventory controls including marijuana products received from outside sources.
- (j) A Description of the social equity plan required by the state of Michigan.
- (k) Description of an operating plan including the following:
 - a. A description of the products and services to be including retail sales of food and/or beverages, if any, and any related accommodations or facilities;

- b. Detailed description of all marijuana storage facilities

Sec. 8-4.3. - Approval of application.

The City Manager or designee shall issue a permit for a marijuana establishment if inspections for safety, zoning compliance, state approval, 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 chapter or any other applicable law, rule or regulation or that contains any false or incomplete information.

Further, the issuance of permits is not on a first come first serve basis nor lottery. Permits will be issued on a point system to be determined by council with the aid of staff.

Sec. 8-4.4. - Violations and penalties.

Any person who is found to be in violation of this article shall be responsible for a civil infraction and shall be subject to a fine of not more than \$500.

Sec. 8-4.5. - Non-renewal or revocation.

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

- (1) A failure to meet the conditions or maintain compliance with the standards established by this chapter in reference to applications for a new permit or the renewal of an existing 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. 8-4.6.- Appeal process.

If an applicant or permitted marihuana facility chooses to appeal the denial of a permit or revocation of a permit, they 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. 8-5. Social Equity.

- 1) The City Council and city staff will work to create a permit process to allow state social equity qualifiers to participate in businesses within the city limits. Permit numbers for these applicants are listed in Sec. 8.4.1.
- 2) \$1,000 from each permit fee will be used for community education and outreach on topics such as adult-use marihuana, to promote social equity to negatively impacted communities by promoting advocacy around criminal justice issues related to marihuana prohibition, supporting youth who have been negatively impacted by the war on drugs as it relates to the prohibition of marihuana, and community education and outreach on adult-use marihuana in general.
- 3) Good-faith effort in employment: any person or entity receiving more than \$10,000 in contract value or benefit from the city must use good-faith efforts in hiring employees who have been negatively impacted by marihuana prohibition in the 48197, 48198 zip code, or who have a prior marihuana conviction. Adult-use recreational marihuana businesses should use good-faith efforts in hiring 25% employees who live in the area codes 48197 or 48198.
- 4) The City of Ypsilanti will not drug-test workers who are not in safety-sensitive jobs, without reasonable documented cause; random drug-testing is prohibited.
- 5) Lowest law enforcement: This ordinance instructs and authorizes local law enforcement to de-prioritize marihuana investigations (except as conducted in conjunction with licensing authorities) and arrests. The possession or smell of marihuana will no longer constitute probable cause for investigation or arrest.

The investigation, citation, and arrest for marihuana law violations in the City of Ypsilanti shall have the lowest law enforcement priority. This does not apply to distribution to minors.

- 6) For the purpose of law enforcement in the City of Ypsilanti, except for cases of operating a motor vehicle as provided in MCL 333.27954(1)(g), the following shall not constitute reasonable articulable suspicion of a crime in the absence of other factors:
 - a) The odor of burnt or unburnt marihuana
 - b) The possession of or suspicion of possession of marihuana that does not exceed the legal limit in Michigan
 - c) The possession of multiple containers of marihuana without evidence of excess of the legal limit in Michigan.

- 7) The City of Ypsilanti shall add requirements that applicants enter Community Benefits Agreements, which may or may not apply to social equity applicants a well.

Sec. 8-6. 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 affect, 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 been included in this Ordinance.

Sec. 8-7 Repeal

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

Sec. 8-8. 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.

Sec. 8-9. Copies to be available.

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. A complete copy of the ordinance is also available for inspection on the City’s website, www.cityofypsilanti.com.

Sec 8-10. 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 publication of record. 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 15th DAY OF October, 2019.

Andrew Hellenga, City Clerk

Attest

I do hereby confirm that the above Ordinance No. 1344 was published in The Washtenaw Legal News on the 24th day of October, 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 15th day of October, 2019.

Andrew Hellenga, City Clerk

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Second Reading: October 15, 2019

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