

**ORDINANCE NO. 02-18
CHAPTER 24
ARTICLE XIII**

THROUGH AN initiative invoked by petition, the People of the City of Detroit adopted the following ordinance at the November 7, 2017 General Election, and by Order of the Wayne County Circuit, the ordinance was modified February 16, 2018:

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:

Section 1. Chapter 24, Article XIII, Sections 24-13-1 through 24-13-14 of the 1984 Detroit City Code is amended to read as follows:

ARTICLE XIII. MEDICAL MARIHUANA FACILITIES

Sec. 24-13-1. Purpose.

(a) The purpose of this article is to establish standards and procedures consistent with the Medical Marihuana Facilities Licensing Act, 2016 PA 281, to: (1) provide qualifying patients access to medical marihuana, (2) ensure the safety of qualifying patients, primary caregivers, and the general public; (3) ensure that a portion of the City's costs in accommodating medical marihuana facilities are supplemented; (4) minimize adverse effects, if any, from the cultivation, processing, dispensing and storage of medical marihuana, and (5) comply with the Michigan Medical Marihuana Act MCL 333.26421 et seq., all in order to protect and enhance the public health, safety, and welfare.

(b) Nothing contained within this article, or within any license issued by the City, shall be construed to relieve a person of the duties and obligations imposed under state law. Notwithstanding the foregoing, it is not the intent of this article to diminish, abrogate or restrict protections for the medical use of marihuana provided in the Michigan Medical Marihuana Act.

(Code 1984, §24-13-1; Ord. No. 02-18 §1, 1-04-2018; modified by Order of Wayne County Circuit Court 2-16, 2018)

Sec. 24-13-2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings provided in this section.

Act means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.

City means the City of Detroit, Michigan.

Cultivation or cultivate means (i) all phases of growth of marihuana from seed to harvest; or (ii) preparing, packaging or

repackaging, labeling, or relabeling of any form of marihuana.

Department means the City of Detroit Buildings, Safety Engineering and Environmental Department.

Grower means a state operating license holder that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

Medical Marihuana Facility means any facility, entity, establishment or center that is required to be licensed under the Act and this article, including a grower, processor, provisioning center, safety compliance facility, and/or a secure transporter.

Marihuana-infused product means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

Person means an individual, partnership, firm, company, corporation, association, sole proprietorship, limited liability company, joint venture, estate, trust, or any other legal entity.

Primary Caregiver means the term as defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.

Processor means a state operating license holder that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Provisioning center means a state operating license holder that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to qualifying patients, directly or through the registered primary caregivers of patients. Provisioning center includes any commercial property where marihuana is sold at retail to qualifying patients or primary caregivers. A non-commercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the state's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this article.

Qualifying Patient means the term as defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.

Safety compliance facility means a state operating license holder that is a commercial entity that receives marihuana from a medical marihuana facility or primary caregiver, tests it for contaminants and for tetrahydro-cannabinol and other cannabinoids, returns the test results, and may return the marihuana to the medical marihuana facility.

Secure transporter means a state operating license holder that is a commercial entity located in this state that stores marihuana and transports marihuana between medical marihuana facilities for a fee.

State operating license means a license that is issued under the Act that allows the licensee to operate as a medical marihuana facility.

(Code 1984, §24-13-1; Ord. No. 02-18 §1, 1-04-2018)

Sec. 24-13-3. Opt-In Provision.

Pursuant to Section 205(1) of the Act, the City shall authorize licenses in accordance with the provisions of this article for the following types of medical marihuana facilities: (1) growers (Class A, Class B & Class C); (2) processors; (3) provisioning centers; (4) safety compliance facilities; and (5) secure transporters.

(Code 1984, §24-13-1; Ord. No. 02-18 §1, 1-04-2018)

Sec. 24-13-4. License Required.

(a) No person shall operate a medical marihuana facility in the City without first obtaining a license from the City in accordance with the provisions of this article. A separate license is required for each medical marihuana facility.

(b) A Provisioning Center in operation on the effective date of this article may continue to operate provided it: (1) has applied to obtain a license from the City within 21 days of the effective date of this article; (2) complies with the license requirements imposed by Section 24-13-9 of this article, as determined by the Department, within 120 days of the effective date of this article.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018)

Sec. 24-13-5. License Application.

(a) Any person seeking to operate a medical marihuana facility shall file an application with the Department's Business License Center upon a form provided by the Department. The application shall include, or include as an attachment, the following information:

(1) The name, age, address, principal telephone number and email address of the applicant;

(2) The name, age, address, principal

telephone number and email address of all business partners of the applicant;

(3) A signed release authorizing the Detroit Police Department to perform criminal background checks on all individuals listed within the application;

(4) If the applicant is a corporation, the names and addresses of all directors, officers or shareholders as well as the name and address of the registered agent;

(5) If the applicant is a partnership, the names and addresses of all general partners, limited partners, or officers as well as the name and address of the registered agent;

(6) If the applicant is a limited liability company, the names and addresses of all directors, managers, members, or officers as well as the name and address of the registered agent;

(7) If the applicant is any other legal entity, the names and addresses of all directors, members, officers, partners, or shareholders as well as the name and address of the registered agent;

(8) The address of the property/building proposed to be used as a medical marihuana facility;

(9) The type of medical marihuana facility (grower, processor, provisioning center, safety compliance facility or secure transporter) proposed to be operated and a narrative describing the applicant's experience with such an operation, including whether associated permits, licenses or approvals had been denied, suspended or revoked;

(10) An applicant for a grower's license or a processor's license shall not be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver, and the applicant shall provide proof, until December 31, 2021, that the applicant has, or has an active employee who has, a minimum of 2 years' experience as a registered primary caregiver;

(11) A description of the security plan for the medical marihuana facility, including, security precautions, recording/monitoring devices, barriers and lighting;

(12) A description of the storage facilities and related equipment for all medical marihuana, regardless of its form;

(13) A description of the process for tracking quantities and inventory controls for medical marihuana, regardless of its form, including cultivation and disposal;

(14) A description of the products and services to be provided by the medical marihuana facility, including retail items;

(15) A description of the procedures

for testing of contaminants and the labeling of medical marihuana products, regardless of form;

(16) Any other information the applicant believes is needed to fully and completely describe the services the applicant intends to provide and/or the benefits the applicant will provide to the City and the greater community.

(b) Except as may be required by state or federal law, the Department will keep all application materials confidential.

(Code 1984, §24-13-1; Ord. No. 02-18 §1, 1-04-2018)

Sec. 24-13-6. Application Fee.

A nonrefundable application fee shall be paid upon filing the application. The application fee shall be in an amount established from time-to-time by the Director of the Department and shall be approved by resolution of the City Council. The fee shall be intended to defray costs incurred by the City to process the application. The fee shall be posted on a schedule in the Department.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018)

Sec. 24-13-7. Application Review.

The Department shall review each application to ensure that it is complete, that the information required by this article has been submitted, and that the application fee has been paid. The Department may reject any application that contains insufficient information and may deny an application for failure to pay the application fee. If the Department determines that an application contains insufficient information the applicant shall have 14 days to supplement the information in the application.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018)

Sec. 24-13-8. Inspections, Investigations.

(a) Upon application and before any license under this article is issued for a medical marihuana facility, the application shall be referred to appropriate departments of the City, including, divisions of the Department and the Fire Department, for respective reports on compliance with all applicable City ordinances, state laws, rules and regulations, including the following:

(1) Zoning. The medical marihuana facility shall meet applicable requirements of the Detroit Zoning Ordinance, as amended;

(2) Building and property maintenance codes. The medical marihuana facility shall meet applicable requirements of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, as amended, MCL 125.1501 et seq., and the

Detroit Property Maintenance Code, as amended;

(3) Fire protection and safety. The medical marihuana facility shall meet applicable requirements of the Detroit Fire Prevention and Protection Code, as amended;

(4) Plumbing. The medical marihuana facility shall meet applicable requirements of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, as amended, MCL 125.1501 et seq., and the Michigan Plumbing Code, as amended;

(5) Ventilation. Proper ventilation, either natural or mechanical, shall be provided so that each person within a medical marihuana facility will be supplied with 1,200 cubic feet of air per hour, or as required by applicable state code, whichever is greater;

(6) Lighting. The medical marihuana facility shall have adequate lighting in every part of the premises in compliance with applicable requirements of the Michigan Electrical Code, as amended;

(7) Health and sanitation. All rooms within a medical marihuana facility housing toilet facilities shall be equipped with sanitary towels of a type acceptable to the City's Department of Health and Wellness Promotion. All rooms within the premises shall meet the requirements of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.1101 et seq., including those concerning food preparation and sanitation.

(b) A license shall not be issued or renewed until satisfactory inspections and reviews are completed by the departments delineated in subsection (a) of this section, and written reports are issued indicating that the applicant is in compliance with the requirements of this section.

(c) In addition to the inspections required above, upon application and before any license under this article is issued for a medical marihuana facility, the application shall be referred to the City's Police Department and Finance Department for respective reports on compliance with the following:

(1) The Police Department shall complete criminal background checks on all individuals listed within the application;

(2) The Finance Department shall cause an investigation to be completed to determine whether any property or income taxes, special assessments, fines, fees or other financial obligations to the City are unpaid, outstanding and/or delinquent.

(d) A license shall not be issued or

renewed until satisfactory inspections and reviews are completed by the departments delineated in subsection (c) of this section. A license shall not be issued or renewed by the Department for any medical marihuana facility until after both of the following have occurred: (1) the Police Department provides written confirmation that all individuals listed within the application do not have any felony convictions related to illegal narcotics, fraud, embezzlement or dishonesty; and (2) the Finance Department provides written confirmation that the applicant is not in arrears for any property or income taxes, special assessments, fines, fees or other financial obligations to the City.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018)

Sec. 24-13-9. License Requirements.

A medical marihuana facility licensed under this article shall be subject to the following conditions:

(1) Compliance with the requirements of this article, other applicable City ordinances and codes, and applicable state laws;

(2) Compliance with the provisions of the Act and the Michigan Medical Marihuana Act;

(3) Medical marihuana facilities must obtain all necessary state and local license/permits before commencing operations and shall maintain a valid license/permit during operation;

(4) No provisioning center may provide medical marijuana to any persons other than qualifying patients and primary caregivers whose status to possess medical marihuana pursuant to state law has been verified. A provisioning center may provide medical marijuana to a secure transporter for the purpose of transporting the material for testing;

(5) No persons under the age of 18 shall be allowed within any medical marihuana facility, unless the individual is a qualifying patient and accompanied by his/her primary caregiver- parent or documented legal guardian;

(6) No medical marihuana facility shall permit the sale or dispensing of alcoholic beverages or tobacco for consumption on the premises or offsite of the premises;

(7) No dried medical marihuana shall be stored in structures without at least four walls and a roof, or stored in an unlocked vault or safe, or other unsecured storage structure; nor shall any dried medical marijuana be stored in a safe or vault that is not bolted to the floor or structure of the facility. This does not include items on display for retail sales;

(8) Operating hours for provisioning centers shall not exceed the hours between 9:00 AM and 9:00 PM daily;

(9) Signs displayed on the exterior and interior of the property shall conform to City ordinance requirements. No signs shall contain the word marihuana nor shall any sign contain marihuana leaves, or green crosses.

(10) Consumption or use of marihuana is prohibited on the premises.

(11) Public and common areas of a medical marihuana facility must be separated from restricted and non-public areas by a permanent opaque barrier that cannot be accessed by individuals who are not approved to have access.

(12) Marihuana and marihuana-infused products may not be stored, displayed, or transferred in an area accessible to the general public, and may only be displayed for sale and transferred in sales areas approved as part of the licensing process set forth in this article.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018; modified by Order of Wayne County Circuit Court 2-16, 2018)

Sec. 24-13-10. License Issuance.

(a) If the application and proposed medical marihuana facility meets all the requirements of this article, the Department shall issue a license in writing. A license that is issued under this article shall be posted at all times inside the licensed medical marihuana facility in a conspicuous location near the entrance.

(b) The term of a license shall be for one year. Any application to renew a license shall be made using the procedure for an original license as specified herein.

(c) A license issued under this article is nontransferable, except for application for transfer which shall be granted if the transferee is eligible to hold that license.

(d) A renewal license shall be issued unless the license has not been renewed by the state Department of Licensing and Regulatory Affairs.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018)

Sec. 24-13-11. License Fee.

A license fee shall be paid upon the issuance of a license under this article. The license fee shall be in an amount established from time-to-time by the Director of the Department and shall be approved by resolution of the City Council. The fee shall be intended to defray the costs incurred by the City to process and monitor licensed facilities. The fee shall be posted on a schedule in the Department.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018)

Sec. 24-13-12. License Denial, Suspension, Revocation.

(a) The following shall constitute grounds for the Department to deny issuance of a license or to suspend or revoke a license issued pursuant to this article:

(1) Any fraud, misrepresentation or false statement in an application, any materials filed with an application or related to a license, any materials provided in conjunction with an application or license, or any statement related to an application or license made to any City officials or agents;

(2) Noncompliance with, or a violation of, this article, applicable City ordinance or any violation of state law relating to the operation of a medical marihuana facility.

(b) Written notice of suspension or revocation, stating the cause or causes of suspension or revocation, shall be mailed to the licensee's address as shown in the application for a license.

(c) Any person aggrieved by the suspension or revocation of a license under this article may appeal to the City's Building Authority Commission by filing with the office of the City Clerk a written appeal within 10 days after suspension or revocation. The Clerk shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in writing. After said hearing, the decision and order of the Commission on any such appeal shall be final and conclusive.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018)

Sec. 24-13-13. Penalty.

(a) Any violation of this article shall be a civil infraction punishable by a fine in an amount set from time to time by resolution of the City Council.

(b) In addition to the penalties provided by this section, the district court shall have equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provision of this article, including, but not limited to, abatement of

the violating condition or the granting of injunctive relief.

(c) Contested hearings under this section before the district court may be conducted as an informal hearing and as a formal hearing, as may be applicable, as provided by the Revised Judicature Act of 1961, 1961 PA 236, as amended, MCL 600.101 et seq.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018)

Sec. 24-13-14. Police review.

For purposes of ensuring compliance with this article, owners and/or operators of licensed medical marihuana facilities shall permit members of the City's police department, or any employee or agent of the City that is authorized by the City's code of ordinances, to inspect, during regular business hours, any portion of a medical marihuana facility, subject to constitutional restrictions on unreasonable searches and seizures. Where entry is refused or not obtained, the City is authorized to pursue recourse as provided by law.

(Code 1984, §24-13-1; Ord. 02-18 §1, 1-04-2018)

Section 2. This ordinance is hereby declared necessary to preserve the public peace, health, safety and welfare of the People of the City of Detroit.

Section 3. All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.

Section 4. This ordinance shall become effective no later than thirty (30) days after publication by the City Clerk in accordance with Sec. 4-118 of the 2012 Charter of the City of Detroit.

Approved by the

voters: November 7, 2017

Certified by the

Board of County

Canvassers:

November 21, 2017

Modified by Order

of Wayne County

Circuit Court:

February 16, 2018

Published:

March 26, 2018

JANICE M. WINFREY

City Clerk

