

CITY OF HAZEL PARK
COUNTY OF OAKLAND
ORDINANCE NO. 03-18

AN ORDINANCE TO AMEND TITLE 5 BUSINESS LICENSES AND REGULATIONS BY AMENDING CHAPTER 5.04 MEDICAL MARIHUANA FACILITIES LICENSING ACT, SECTIONS 5.04.010 THROUGH 5.04.090 TO PROVIDE AND ESTABLISH A PROCESS AND PROCEDURE FOR THE APPLICATION AND LICENSING REQUIREMENT FOR MEDICAL MARIHUANA FACILITIES AND GROWING OPERATIONS WITHIN THE CITY OF HAZEL PARK AND TO PROVIDE FOR THE SUSPENSION AND REVOCATION FOR VIOLATIONS THEREOF.

THE CITY OF HAZEL PARK ORDAINS:

PART I. AMENDMENT.

This Ordinance hereby amends Title 5, Business Licenses and Regulations, Chapter 5.04 Medical Marihuana Facilities Licensing Act, Sections 5.04.010 through 5.04.090, to read as follows:

Section 5.04.010 Definitions:

1. **Provisioning Center:** means an authorized commercial entity that purchases or transfers marijuana from a grower or processor and sells or transfers only to registered qualifying patients or registered primary caregivers.
 - a. All sales or transfers of marihuana to a registered primary caregiver or registered patient shall be made only after it has been tested and bears the label required for retail sale. All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.
2. **Grower:** means a licensed commercial entity, located within the State of Michigan, that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
3. **Safety compliance facility:** means a facility authorized to receive marihuana from, test marihuana for, and return marihuana to a licensed marihuana facility.
4. **Processor:** means a licensee 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.
5. **Secure transporter:** means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
6. **Person:** means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

7. **Marihuana Facility:** means a location at which a license holder is licensed to operate under the Medical Marihuana Facilities Licensing Act. (Michigan Public Act 281 of 2016).
8. **Facility:** means processor, secure transporter, provisioning center and/or safety compliance facility.

Section 5.04.020 Number and types of License:

The number of each of the licenses listed herein shall be limited to four each, unless otherwise determined by resolution of the City Council.

1. Grower
 - a. Class a (up to 500 plants)
 - b. Class b (up to 1,000 plants)
 - c. Class c (up to 1,500 plants)
2. Processor
3. Secure transporter
4. Provisioning center
5. Safety compliance facility

An increase in the number of licenses issued, shall be determined by resolution of city council based upon the following:

- a. The number of existing licenses currently issued per area and location,
- b. The distance between existing licensed facilities and/or growing operations,
- c. The distance requirement from existing public schools K through 12

Once the limit is reached no further applications will be accepted and existing applications will be held in the order received when a license becomes available. Applications older than 12 months must be resubmitted with updated information in order to be considered for any license which becomes available.

Any license issued must be established and a certificate of occupancy issued within 6 months, or the licensee shall surrender the license if the use is not established within the required time.

Zoning approval shall be required prior to issuance of any license. Zoning approval does not guarantee a license for any proposed facility or growing operation.

Section 5.04.030 License Required:

- a. No person shall own or operate a Medical Marihuana Facility (“Facility”) or Grow Operation in the City without first applying for and receiving a license from the City Clerk’s office and the State of Michigan.
- b. A Facility or grow operation shall not include a club, café, or other design that permits consumption of medical marihuana at the facility or grow operation.
- c. A license is not transferable and shall only apply to the person listed on the license.
- d. Licenses shall be valid for a period of one year, from July 1st to June 30th.

- e. Applications to renew a license shall be filed at least 30 days prior to the date of expiration. Such renewal shall be annual and shall be accompanied by an annual license fee of \$5,000.00.
- f. Licenses shall be displayed at all times, inside the location, in an open and conspicuous place.
- g. Every applicant shall pay a nonrefundable application fee of \$1, 000.00 at the time of initial application and an additional \$4,000.00 prior to issuance for an initial license.
- h. A use purporting to be engaged in the medical use of marihuana prior to enactment of the Michigan Medical Marihuana Facilities Licensing Act, or prior to being registered with the Michigan Department of Community Health, shall be deemed to not be a legally established use and not entitled to legal nonconforming status under the provision of this ordinance and under state law.

Section 5.04.040 Application.

Every applicant for a license to maintain, operate or conduct a Medical Marihuana Facility or Grow Operation shall file an application under oath with the City Clerk's office upon a form provided by the city, the application shall contain the following:

- a. The particular license or licenses for which the applicant is applying.
- b. An explanation of the services to be provided and a completed medical marihuana checklist, upon a form provided by the city clerk's office.
- c. Name and address of applicant.
 - a. If applicant is a corporation, LLC, Partnership or Trust, the names and addresses of each officer, director, member, partner or beneficiary.
 - b. Copy of applicant's driver's license or state Identification.
- d. Employment and/or business history of the applicant for the past three years.
- e. Address of the proposed facility, designate whether the proposed facility will be new construction or renovation of an existing building.
 - a. If a leased facility, an executed copy of the lease for the premises where the facility is proposed to be operated and a separate written consent from the owner of the premises authorizing the use of the premises.
- f. List of any community involvement with the city of Hazel Park.
- g. Provide the proposed gross revenue to be generated from the facility for the ensuing year. A description of the type of marihuana facility; anticipated or actual number of employees; and projected or actual gross receipts.
- h. The days and hours the facility is proposed to be open or in operation.
- i. All criminal convictions, fully disclosing the jurisdiction of the conviction.
- j. Whether the applicant applied for a license from the state.
- k. Name and address of registered caregiver and years caregiver has been licensed.
- l. Provide the sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.

- m. Has applicant had filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law.

Section 5.04.050 General Requirements.

No license to conduct a Medical Marihuana Facility or Medical Marijuana Grow Operation shall be issued unless the city confirms that the proposed Facility or grow operation complies with the following requirements:

- a. The proposed location is in an allowable zoning district.
- b. There shall be no entrance or exit way which provides direct access to another type of business, residence or living quarters.
- c. Hours of operation shall be no earlier than 8:00 a.m., and no later than 8 p.m., except for staff necessary at a Medical Marihuana Grow Operation.
- d. Smoking and or use of medical marihuana are prohibited in any Medical Marihuana Facility or Grow Operation.
- e. Signs shall comply with the city's sign ordinance and shall not use the word marihuana/marijuana or any other word or phrase which would refer to marihuana; nor may pictures of a leaf or leaves, green cross or any other rendering which would depict marihuana/marijuana be displayed on a sign or any part of the building. Only one sign per building shall be allowed.
- f. A site plan shall be required, showing the proposed building(s) to be used, remodeled or reconstructed, along with the parking, landscaping and lighting plans.
- g. Waste disposal, chemical disposal and plant waste disposal plan required.
- h. Residential uses within the same structure/building is prohibited.
- i. Outdoor Storage or discharge of toxic, flammable or hazardous materials into city sewer or storm drains is prohibited.
- j. A copy of premises liability and casualty damage insurance in the amount of One Million Dollars shall be submitted to the city when the applicant has been notified that they are ready for final approval.
- k. That at the time of the application, the applicant's proposed facility is not within 500 feet of a K through 12 public school building.
- l. Each facility or grow operation shall be bonded to guarantee that all accounting and taxes are paid in full according to the law and that the operation or facility performs in accordance with all government standards.

Section 5.04.060 Specific Requirements:

A. Grower Facility:

- a. No marihuana shall be cultivated, grown, manufactured or processed in any manner that would emit odors beyond the interior of the structure or which is otherwise discernable to another person. The odor must be prevented by the installation of an operable filtration or ventilation and exhaust equipment and

odors must otherwise be effectively confined to the interior of the building from which the odor is generated.

- b. Noise shall not be emitted beyond the interior of the structure.
- c. No outdoor storage.
- d. Security and floor plan for indoor storage of chemicals must be provided.

B. Processor Facility:

- a. No marihuana shall be cultivated, grown, manufactured or processed in any manner that would emit odors beyond the interior of the structure or which is otherwise discernable to another person. The odor must be prevented by the installation of an operable filtration to ventilation and exhaust equipment and odors must otherwise be effectively confined to the interior of the building or dwelling from which the odor is generated.
- b. Noise shall not be emitted beyond the interior of the structure.
- c. No outdoor storage.

C. Provisioning Center:

- a. The sale or dispensing of alcohol is prohibited.
- b. The applicant and each investor in the provisioning center must not have an interest in a secure transporter or safety compliance facility.
- c. Not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.
- d. No outdoor storage.
- e. Products and /or supplies may not be sampled in or on the premises.
- f. Security and floor plan for indoor storage must be provided.

D. Secure Transporter Facility:

- a. To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter must not have an interest in a grower, processor, provisioning center, or safety compliance facility and must not be a registered qualifying patient or a registered primary caregiver.
- b. Each driver transporting marihuana must have a Michigan Chauffeur's license.
- c. Each vehicle shall be operated by at least a 2 person crew.
- d. The secure transporting vehicle shall not bear any markings or identification that it is carrying marihuana or a marihuana infused product.
- e. No outdoor storage.

E. Safety Compliance Facility:

- a. Shall have a secured laboratory space that cannot be accessed by the general public.
- b. No outdoor storage.

- c. Have appropriate education, training and/or experience to comply with State regulations on testing medical marihuana.

Section 5.04.065 Operation at a same location -grower, processor and provisioning center.

1. Any combination of the following types of operating licenses may operate as separate marihuana facilities at the same location: Grower, Processor, provisioning center.
2. To operate at a same location all of the following apply:
 - a. The state has authorized the proposed operation at the same location;
 - b. The operation at a same location shall not be in violation of any city ordinances or regulations;
 - c. Each marihuana facility shall do all of the following:
 - i. Apply for and be granted separate state and city operating licenses;
 - ii. Have distinct and identifiable area with designated structures that are contiguous and specific to the operating license;
 - iii. Have separate entrances and exits, inventory, record keeping and point of sale operations, if applicable;
 - iv. Post the state and city licenses on the wall in a distinct area and as provided in this ordinance
 - v. Have the required inspections and permits for each building.
3. Operation at the same location that includes a licensed provisioning center shall have the entrance and exit to the licensed provision center marihuana facility and entire inventory physically separated from any of the other licensed marihuana facility or facilities so that persons can clearly identify the retail entrance and exit.

Section 5.04.070 Review, Grant or Denial of a license

A. Denial:

(1) The City shall use information provided on the application as a basis to conduct a thorough background investigation on the applicant. **A false application or denial of a license at the state level is cause to deny a license.**

(2) An applicant is ineligible to receive a license if any of the following circumstances exist:

(a) The applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.

(b) Within the past 5 years the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.

(c) The applicant has knowingly submitted an application for a license under this act that contains false information.

(d) The applicant fails to demonstrate the applicant's ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility.

B. Factors considered for granting a license:

(1) In determining whether to grant a license to an applicant, the city may also consider all of the following:

(a) The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a marihuana facility of the applicant.

(b) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.

(c) The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.

(d) Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise.

e) Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past 7 years.

(f) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.

(g) Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.

(h) Whether at the time of application the applicant is a defendant in litigation involving its business practices.

(i) The security proposed for the Facility or grow operation, and safety compliance plan.

(j) Neighborhood compatibility plan.

(k) The applicant's business plan, considering the applicant's business experience within the past ten years, history of performance and profit and loss statements for each business.

(l) Community involvement, including, but not limited to, charitable contributions and involvement.

(m) Consideration of the effects of the proposed facility and/or growing operation on neighboring properties.

(n) Written acknowledgment that the premises and surveillance and security camera recordings for protection of the public safety are subject to inspection for purposes of determining compliance with state and local laws, without a search warrant.

Section 5.04.075 Granting of license.

- 1. Grant of initial licenses. Council shall confirm compliance with all requirements and factors in the granting of initial licenses. If the number of applicants meeting the requirements herein exceed the number of available licenses the council shall rank the applicants in order, considering the factors outlined in section 5.04.070 and consideration of the site plan proposed for the facility or growing operation; new construction and thereafter reconstruction of buildings shall be ranked higher than those applications proposing existing buildings. Ranking shall be based upon a 0 to 10 scale for each factor including zoning compliance with a 0 meaning does not comply and a 10 meaning exceeds compliance.**
- 2. For the first year, applications for licenses, special use permit and site plan review shall be submitted no earlier than February 1, 2018 and no later than February 28, 2018. Applications shall be reviewed within 30 days after site plan approval.**

Section 5.04.080 Violations, Penalties, Revocation

- (1) If an applicant or licensee fails to comply with this ordinance, if a licensee no longer meets the eligibility requirements for a license under this ordinance, or if an applicant or licensee fails to provide information the city requests to assist in any investigation or inquiry, the city may deny, suspend, or revoke a license.
- (2) The City Manager may suspend a license without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marijuana facility's operation. If the license is suspended without notice or hearing, a prompt post suspension hearing must be held to determine if the suspension should remain in effect. The suspension may remain in effect until the city Manager determines that the cause for suspension has been abated. The City Manager may revoke the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard. A license will automatically be revoked upon revocation or denial of a license under the Medical Marijuana Facilities License Act by the State.
- (3) Any party aggrieved by an action of the City Manager suspending or revoking a license shall be given a hearing before the City Council upon request. A request for a hearing must be made to the City Clerk's Office, in writing within 21 days after service of notice of the action of the City Manager.
- (4) The City may conduct investigative and contested case hearings; issue subpoenas for the attendance of witnesses; issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents; and

administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the board under this act.

- (5) In addition to the sanctions outlined in paragraphs (1) through (4) of this section, any person who violates any provision of this Ordinance shall be responsible for a civil infraction and subject to the payment of a civil fine of \$1,000.00 for each offense.

Section 5.42.090 City Responsibility.

The City Clerk shall provide the following information to the State Licensing Board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:

(a) A copy of the local ordinance that authorizes the marihuana facility.

(b) A copy of any zoning regulations that apply to the proposed marihuana facility within the municipality.

(c) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan medical marihuana act.

(2) The municipality's failure to provide information to the board shall not be used against the applicant.

(3) Information a municipality obtains from an applicant related to licensure under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

PART II. SEVERABILITY.

Should any section, subdivision, clause or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance of a whole or in part, should not be affected other than the part declared invalid.

PART III. REPEALER.

To the extent that any other Ordinance, or section or portion thereof, conflicts with or is inconsistent with this Ordinance, that Ordinance, or section or portion thereof, is hereby repealed.

PART IV. EFFECTIVE DATE; EMERGENCY DECLARATION; PUBLICATION.

The City Council has determined that the provisions of this Ordinance are an emergency and shall have immediate effect and shall be published within ten days after its adoption by a brief notice in a newspaper circulated in the city, stating the date of the enactment and the effective date of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF HAZEL PARK, OAKLAND COUNTY, MICHIGAN ON THE 16 DAY OF January, 2018.


MICHAEL WEBB, MAYOR


JAMES FINKLEY, CITY CLERK

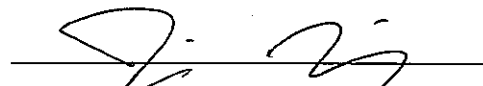
Date of Adoption: 1/16/18

Date of Publication: 1/24/18

Effective date: 1/16/18

CERTIFICATE OF ADOPTION

It is hereby certified that the foregoing is a true and complete copy of an Ordinance passed as a regular meeting of the City Council of the City of Hazel Park, held on the 16 day of January, 2018.


JAMES FINKLEY, CITY CLERK