

ORDINANCE NO. 2-1600

AN ORDINANCE TO REGULATE MARIJUANA FACILITIES

THE CITY OF ISHPEMING ORDAINS:

Section 1. PURPOSE

It is the intent of this ordinance to authorize the establishment of certain types of marijuana facilities in the City of Ishpeming and provide for the adoption of reasonable restrictions to protect the public health, safety and general welfare of the community at large; to retain the character of neighborhoods; and to mitigate potential impacts on surrounding properties and persons.

Section 2. DEFINITIONS

- A. Any term defined by the MMA, (Medical Marihuana Act) MCL 333.26421 et seq. shall have the definition given in the MMA.
- B. Any term defined by the MFLA (Marihuana Facilities Licensing Act) MCL 333.27101 et seq. shall have the definition given in the MFLA.
- C. Any term defined by the MTA (Marihuana Tracking Act) MCL 333.27901 et seq. shall have the definition given in the MTA.
- D. Any term defined by the MRTMA (Michigan Regulation and Taxation of Marihuana Act) MCL 333.27951 et seq. shall have the definition given in the MRTMA.
- E. “Designated consumption establishment” means a commercial space that is licensed by the agency to permit adults 21 years of age and older to consume marijuana products at the location indicated on the state license.
- F. “Grower” means a licensee that is a commercial entity located in this state that cultivates, dries, trims or cures and packages marijuana for sale to a processor, provisioning center or marijuana retailer.
- G. “Licensee” means a person holding a state operating license issued under the MFLA, MCL 333.27101 et seq.; the MTA, MCL 333.27901 et seq. or the MRTMA, MCL 333.27901 et seq.
- H. “Marijuana” or “Marihuana” means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the MMA, MCL 333.26421 et seq.; the MFLA, MCL 333.27101 et seq.; the MTA MCL 333.27901 et seq. and the MRTMA, MCL 333.27901 et seq.
- I. “Marijuana Event Organizer” means a person licensed to apply for a temporary marijuana event license under these rules.

J. “Marijuana Facility” or “Marijuana Establishment” means an enterprise at a specific location at which a licensee is licensed to operate under the MFLA, MCL 333.27101 et seq., or the MRTMA, MCL 333.27951 et seq. including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana establishment, marijuana secure transporter, marijuana safety compliance facility, or any other type of marijuana-related business licensed by the State of Michigan. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the MMA, MCL 333.26421 et seq.

K. “Marijuana Microbusiness” means a person licensed to cultivate not more than 150 marijuana plants; process and package marijuana; and sell or otherwise transfer marijuana to individuals who are 21 years of age and older or to a marijuana safety compliance facility, but not to other marijuana establishments.

I. “Provisioning center” means a licensee that is a commercial entity located in Michigan that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property where marijuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the MMA, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

M. “Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

N. “Processor” means a licensee that is a commercial entity located in Michigan that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center or marijuana retailer.

O. “Retailer” means a person licensed to obtain marijuana from marijuana establishments and to sell or otherwise transfer marijuana to marijuana establishments and to individuals who are 21 years of age or older.

P. “Safety Compliance Facility” means a licensee that is a commercial entity that receives marijuana from a marijuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

Q. “Secure Transporter” means a licensee that is a commercial entity located in this state that stores marijuana and transports marijuana between marijuana facilities for a fee.

R. “Temporary Marijuana Event License” means a state license held by a marijuana event organizer for an event where the onsite sale or consumption of marijuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

Section 3. AUTHORIZATION OF FACILITIES AND FEES.

A. The maximum number of each type of marijuana facility allowed in the City of Ishpeming shall be as follows:

<u>Facility</u>	<u>Total number</u>
Marijuana retailer or Provisioning center or Combined retailer/provisioning center	2
Marijuana Grower	None
Marijuana Processor	None
Marijuana Secure Transporter Facility	None
Marijuana Safety Compliance Facility	None
Marijuana Microbusiness	None
Marijuana Event Organizer	None
Temporary Marijuana Event	None
Designated Consumption Establishment	None

B. Two (2) Marijuana Retailer/Provisioning Centers may be located within the CBD (Central Business District) or Two (2) Marijuana Retailer/Provisioning Centers may be located within the GC (General Commercial) zoning district, or One (1) Marijuana retailer/ Marijuana Provisioning Center may be located in each of the said zoning districts, but not more than two (2) establishments licensed as Marijuana retailers or Marijuana Provisioning Centers, whether operating as combined retailer/provisioning centers or as stand-alone establishments, may be located within the City.

C. No marijuana establishment shall be located within 250 feet of the real property comprising an elementary or secondary school. This distance shall be measured as the shortest straight-line distance between the property lot lines of the marijuana establishment and the school.

D. A non-refundable fee of \$5000.00 shall be paid by each marijuana facility licensee under this ordinance, which shall be paid before a license or renewal is issued. This fee is intended to help defray administrative and enforcement costs associated with the operation of a marijuana establishment in the City of Ishpeming.

E. Marijuana facilities may not have images of marijuana products nor of consumption of marijuana products depicted on the exterior of the building nor on signs. Marijuana facilities shall be configured so that marijuana products are not visible through windows or otherwise from the exterior of the building.

F. Marijuana facilities may not be open for business between the hours of nine o'clock (9:00) p. m. and seven o'clock (7:00) a. m.

Section 4. REQUIREMENTS AND PROCEDURE FOR ISSUING A LICENSE OR
LICENSE RENEWAL

A. No person shall operate a marijuana facility in the City of Ishpeming without a valid marijuana facility license issued by the City pursuant to the provisions of this ordinance.

B. Every applicant for a license to operate a marijuana facility shall file an application in the Zoning Administrator's office upon a form provided by the City. The application shall contain the following information:

1. Type of application and type of license.
2. Applicant name, business name, phone number, email address, physical address and mailing address.
3. Owner and Manager information, including government issue photo identification.
4. Property information, including legal description, ownership, zoning compliance.
5. If property is leased, include a notarized letter from owner authorizing use for intended facility.
6. Water and waste information, including estimated amounts, measures for hygiene, rubbish, hazardous waste, pest, mold and odor control.
7. Business operations, including hours of operation, record keeping, logs and data bases.
8. Security information, including surveillance cameras, alarms and secure storage.
9. Any other information the City requests that is relevant to the processing or consideration of the application.
10. Applicants have a duty to supplement submitted applications if there are any changes in the relevant state law, or any changes that would make the proposed township permit holder ineligible for a state license under the MMFLA and/or the MRTMA.
11. Required fee.

C. Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the Zoning Administrator shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The Zoning Administrator shall act to approve or deny an application not later than fourteen (14) days from the date the application was accepted. If approved, the Zoning Administrator shall issue the applicant a provisional license and act to schedule a Public Hearing of the Planning Commission to review the Conditional Use Permit and all associated documents.

D. A provisional license means only that the applicant has submitted a valid application for a marijuana facility license, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the City. A provisional license will lapse and be void if such permits and approvals are not completed within six months of issuance.

E. Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the Zoning Administrator shall approve or deny the marijuana facility license. The Zoning Administrator shall issue marijuana facility licenses in order of the sequential application number previously assigned.

F. Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility license under this ordinance and continued operation of any marijuana facility. The applicant is responsible for providing a copy of the valid license to the City.

G. License holders shall report any change in the information required by this ordinance to the Zoning Administrator within ten (10) days of the change. Failure to do so may result in suspension or revocation of the license.

H. A marijuana facility license issued under this ordinance is not transferable.

Section 5. DENIAL OF APPLICATION; APPEAL

A. Should the Zoning Administrator deny an application, the applicant shall have ten (10) days from the mailing of the denial to appeal the denial to the City Manager by filing a notice of appeal with the City Clerk. The City Manager may require additional information or act upon the appeal based upon the information supplied to the Zoning Administrator. Should the City Manager reverse the decision of the Zoning Administrator, he shall issue a provisional license. Should the City Manager affirm the Zoning Administrator's decision, the City Manager shall issue a written notice affirming the decision.

B. The applicant shall have ten (10) days from the mailing of a decision by the City Manager affirming the decision of the Zoning Administrator to appeal to the City Council by filing a notice of appeal with the City Clerk. The City Council shall hear the appeal at its next regular meeting, but not sooner than five (5) days from the receipt of the appeal notice.

Section 6. LICENSE RENEWAL

A. A marijuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.

B. A valid marijuana facility license may be renewed on an annual basis by submitting a renewal application upon a form provided by the City, gaining approval by the Zoning administrator and payment of the annual license fee. The Zoning Administrator shall evaluate the renewal application using the same criteria applicable to new applications. Application to renew a marijuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

C. Should the renewal application be denied, the procedure outlined in Section 5. above shall apply.

Section 7. PENALTIES AND ENFORCEMENT

A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than Five Hundred dollars (\$500.00) plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

B. A violation of this ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.

C. A license issued under this ordinance may be revoked on any of the following bases:

1. Any violation of this ordinance.
2. Conviction of a licensee, owner, stakeholders, or its employees of delivery of a controlled substance to a minor.
3. Fraud, misrepresentation or the making of a false statement by an applicant, licensee, owner or stakeholder while engaging in any activity for which this ordinance requires a license or in connection with the application for a license or request to renew a license.
4. The license holder or any of its stakeholders is in default to the City personally or in connection with any business in which they hold ownership interest, for failure to pay property taxes, special assessments, fines or fees.
5. The marijuana establishment is determined by the City to have become a public nuisance.
6. The State of Michigan has denied, revoked or suspended the applicant's state operating license.

D. Acceptance of a license by a licensee constitutes consent by the licensee and its owners, officers, managers, agents and employees for any federal, state or local fire, emergency or law enforcement personnel to conduct random and unannounced examinations of the facility and all articles of property in that facility at any time to ensure compliance with this ordinance, any other local ordinances or regulations, and with the license.

Section 8. AUTHORITY

A. Authority for the enactment of these provisions is set forth in the Medical Marijuana Facilities Licensing Act (MFLA), MCL 333.2701 et seq. and the Michigan Regulation and taxation of Marijuana Act (MRTMA), Initiated Law 1 of 2018 MCL 333.27951 et seq.

B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marijuana in any form that is not in compliance with the Medical Marijuana Act (MMA), Initiated Law 1 of 20008, MCL 333.26421 et seq.; the MFLA, MCL 333.27101 et seq.; the Marijuana Tracking Act (MTA), MCL 333.27901 et seq.; the (MRTMA), Initiated Law 1 of 2018 MCL 333.27951 et seq.; and all other applicable rules promulgated by the State of Michigan.

C. As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal controlled Substance Act, U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

Section 9. SEVERABILITY

In the event that any one or more sections, provisions, phrases or words of this ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this ordinance.

Adopted: January 12, 2022

Effective: February 12, 2022