

Sec. 50-2. - Medical marihuana.

(a) *Findings.* The city adopts this section based on the following findings of fact:

- (1) Voters in the state approved a ballot initiative authorizing the use and cultivation of marihuana by and for persons with certain medical conditions.
- (2) The intent of the initiative was to enable certain specified persons who comply with the registration provisions of the law to obtain, possess, cultivate, use and distribute marihuana and to assist specifically registered individuals identified in the statute without fear of criminal prosecution under limited, specific circumstances.
- (3) Despite the specifics of the state legislation and the protections set forth therein, marihuana remains a controlled substance under state law and the obtaining, possession, cultivation, use and distribution of marihuana has a potential for abuse that should be closely monitored and to the extent permissible regulated by the local authorities.
- (4) If not closely monitored or regulated, the presence of marihuana even for the purposes permitted by the legislation can increase the potential for illegal conduct and/or activity or other adverse conditions and this threat affects the health, safety and welfare of the residents of the city.
- (5) It is the intent of the city that nothing in this article be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, possession or control of marihuana for non-medical purposes or allow activity relating to cultivation, distribution or consumption of marihuana that is otherwise illegal.
- (6) The city recognizes that federal law is not impacted by the adoption of this Section, and, therefore, does not intend, and the public shall not construe, this Section to grant immunity under federal law, including but not limited to the Federal Controlled Substances Act.

(b) *Purpose.* It is the purpose of this section to impose specific requirements on those individuals registering with the state as a "qualifying patient" or a "primary caregiver" and to regulate the conduct of activity pursuant thereto in the city so as to protect the health, safety and welfare of the general public.

(c) *Definitions.*

MMFLA means the Michigan Marihuana Facilities Licensing Act, MCL 333.2701 et seq., as amended from time to time.

MMMA means the Michigan Medical Marihuana Act, MCL 333.26421 et seq. and the Michigan Medical Marihuana rules, Michigan Administrative Code R 333.1 et seq., as amended from time to time.

The terms "enclosed, locked facility," "grower license," "marihuana," "medical use," "primary caregiver," "processor license," "provisioning center license," "safety compliance facility license," "secure transporter license," "qualifying patient" and "usable marihuana" shall have the same meanings given to them in the MMMA.

(d) *Possession and use of medical marihuana.* Marihuana can be possessed and used in the city only in accordance with and pursuant to the MMMA.

(e) *Medical Marihuana Facilities and Licensure.* If an applicant is granted a license by the State as a Grower, Processor, Secure Transporter, or for a Medical Marihuana Provisioning Center or Safety Compliance Facility, it may only be operated consistent with the MMMA and MMFLA, and for all purposes contemplated therein, and subject to the following:

- (1) Facilities may only be operated with a Special Exception Use as set forth in Chapter 86, Section 268.

- (2) Prior to application for a Special Exception Use, inspection shall be conducted as may be deemed appropriate by the officer or employee named and shall indicate a determination of whether the requirements following the official's or employee's title have been complied with:
 - a. Police Chief: Applicant(s) meet all applicable background requirements as set forth herein.
 - b. Fire Chief: The provisions of the fire code and all other applicable regulations and requirements of the city and the state relative to fire safety have been complied with.
 - c. Health Officer: All applicable health and sanitary requirements of the city, county and state have been complied with.
 - d. City Manager: All other provisions of the code not otherwise enumerated in Subsections (a)-(c) above have been complied with.
- (3) No applicant shall be eligible for a Special Exception Use under this Section if any person named on the application has ever been convicted of a felony involving controlled substances as defined under the Michigan Public Health Code, MCL 333.1101 *et seq.*, federal law, or the law of any other state.
- (4) No person shall operate a Medical Marihuana Facility without issuance of a Special Exception Use as set forth herein.
- (5) The Special Exception Use as required herein is in addition to any other licensing and permitting requirements imposed by any other federal, state, or local law or regulation.
- (6) The requirements of this Section apply to all Medical Marihuana Facilities that exist on the effective date of this Section, as amended, as well as those established thereafter.

(h) *Penalty.* Violations of this Section shall be as set forth below:

1. Violations of Subsection (e) of this Section regarding Medical Marihuana Facilities and Licensure shall constitute a misdemeanor the penalty for which shall not exceed ninety (90) days in jail and a fine not to exceed \$500.00, plus costs and other sanctions for each violation. Each occurrence of a Medical Marihuana Facility is in violation of this Section shall be considered a separate offense. Additionally, each day that a Medical Marihuana Facility is not in compliance with any provision of this Section shall be considered a separate offense. The city may in addition seek injunctive relief.
2. Violations of any other provisions of this Section shall constitute a municipal civil infraction the penalty for which shall not exceed \$100.00, plus costs and other sanctions for each violation. Each day that a violation occurs shall be considered a separate offense. The city may in addition seek injunctive relief.

(Ord. No. 2012-01, §§ 1—8, 5-7-12)