

**CITY OF HARTFORD
COUNTY OF VAN BUREN
STATE OF MICHIGAN
PROPOSED AMENDMENT OF ORDINANCE 307-10 & 320-2020**

ORDINANCE NO. 341 - 2023

AN ORDINANCE TO ADD A NEW SUBCHAPTER ENTITLED “MARIJUANA BUSINESSES” TO TITLE XI OF THE HARTFORD CITY CODE TO PROVIDE FOR THE AUTHORIZATION OF MARIJUANA BUSINESSES OPERATED IN ACCORDANCE WITH STATE LAW AND THE CITY’S ZONING ORDINANCE

The City of Hartford ordains:

Section 1. Amendment. A new subchapter entitled “Marijuana Businesses” is hereby added to Title XI of the Hartford City Code to read in its entirety as follows:

Marijuana Businesses

Sec. 110.11. Definitions.

The following words and phrases have the meanings ascribed to them when used in this subchapter:

- (a) *Co-located business* means a marijuana business with 2 or more types of state operating licenses operating within a single location.
- (b) *Designated consumption establishment* means a business licensed as a designated consumption facility under the MRTMA.
- (c) *Excess marijuana grower* means a business licensed as an excess marijuana grower under the MRTMA.
- (d) *Grower* means a business licensed as a grower under either the MMMFLA, the MRTMA, or both.
- (e) *LARA* means the department of licensing and regulatory affairs and any successor agency to the department.
- (f) *Location-specific step* means the portion of the application for a state operating license under the MMMFLA and the MRTMA that follows the prequalification step and pertains to the details of the proposed location.
- (g) *Marijuana* means, depending on the context, the same thing as “marihuana” as defined in the MMMFLA, the MRTMA, or both.
- (h) *Marijuana business* or *business* is a business involving one or more licenses issued under the MMMFLA, the MRTMA, or both.
- (i) *Microbusiness* means a business a business licensed as a marijuana microbusiness under the MRTMA.
- (j) *MMMA* means the Michigan medical marihuana act, 2008 IL 1, as amended MCL 333.26424 *et seq.*
- (k) *MMMFLA* means the Michigan medical marihuana facilities licensing act, 2016 PA 281, as amended, MCL 333.27102 *et seq.*
- (l) *MRTMA* means the Michigan regulation and taxation of marihuana act, 2018 IL 1, as amended MCL 333.27951 *et seq.*

- (m) *Prequalification step* means the portion of the application for a state operating license under the MMMFLA or MRTMA pertaining to the applicant’s financial background and the criminal history of the applicant and other associated persons.
- (n) *Processor* means a business licensed as a processor under either the MMMFLA, the MRTMA, or both.
- (o) *Provisioning center* means a business licensed as a provisioning center under the MMMFLA. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through LARA’s marijuana registration process in accordance with the MMMA is not a provisioning center for purposes of this section.
- (p) *Retailer* means a person licensed under the MRTMA 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.
- (q) *Safety compliance business* means a person licensed as a safety compliance facility under the MMMFLA, the MRTMA, or both.
- (r) *Secure transporter* means a person licensed as a secured transporter under the MMMFLA, the MRTMA, or both.
- (s) *Stacked grower licenses* means two or more grower licenses issued to a single person to *under the MMMFLA or MRTMA*.
- (t) *State operating license or license* means a license that is issued under the MMMFLA or MRTMA to operate as a grower, processor, secure transporter, provisioning center, retailer, safety compliance facility, or microbusiness.
- (u) *Temporary marijuana event* means an event where the onsite sale or consumption of marijuana products, or both, are authorized at the location indicated on a state operating license issued under the MRTMA during the specified dates.

Sec. 110.12. Authorization Required; Numerical Limitations.

- (a) Marijuana businesses may be authorized to operate in the City of Hartford pursuant to this division and the City’s zoning ordinance.
- (b) No business listed in subsection (a) may operate in the City of Hartford without a final authorization granted by the City Clerk pursuant to Section 110.13(d). A proposed business is not eligible for a state operating license until the clerk grants final authorization.
- (c) The number of state operating licenses for marijuana businesses shall be limited as follows:
 - (1) Designated consumption establishments (adult-use) – 2 licenses
 - (2) Growers (medical and adult-use) and excess marijuana growers (adult-use) – 13 licenses
 - (3) Microbusinesses (adult-use) – 3 license
 - (4) Processors (medical and adult-use) – 5 licenses
 - (5) Provisioning centers (medical) and retailers (adult-use) – 4 licenses
 - (6) Safety compliance (medical and adult-use) – 2 licenses
 - (7) Secure transporters (medical and adult-use) – 2 licenses
 - (8) Temporary marijuana events (adult-use) – 4 licenses

These limitations reflect the total number of available licenses in each category. The City anticipates that licenses will be co-located on various parcels, meaning that the total number of parcels containing marijuana businesses will be lower than the total number of licenses in use in the City.

Sec. 110.13. Application Process.

- (a) *Submission.* A person may apply for authorization to operate a marijuana business within the City by submitting the following items to the City on a standardized application form prepared by the City Clerk. These items may be submitted to the Clerk before applying for requisite zoning approvals:
- (1) A copy of official paperwork issued by LARA indicating that the applicant has successfully completed the prequalification step of the application for a state operating license.
 - (2) A signed statement from the applicant indicating:
 - (A) The current property owner of record for the proposed business location;
 - (B) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicant's. Only one application shall be submitted per property. Co-located businesses may be requested on a single application;
 - (C) The address, tax identification number, and zoning designation of the proposed business location;
 - (D) The type or types of state operating licenses that the applicant is seeking at the proposed business location (e.g., medical grower, adult-use grower, provisioning center, etc.); and
 - (E) If the proposed business involves stacked grower licenses, the number of licenses sought.
 - (3) An advance of the annual administrative fee established in Section 110.15(d).
- (b) *Clerk action upon receipt.* The city clerk will accept and receive any application that includes the required items listed above and will date-stamp such application upon receipt.
- (c) *Conditional authorization.* The city clerk will conditionally authorize applications as follows:
- (1) The day after an application is received, the city clerk will conditionally authorize the application upon determining that if such application, if granted, could not cause the total number of licenses for any business type to exceed the numerical limitations listed in section 110.12(c) above. In making this determination, the city clerk shall assume that: (A) all marijuana businesses that are currently in operation will remain in operation; and (B) all conditionally authorized applications will result in the issuance of the number of state operating licenses that have been requested. If the city clerk determines that the application would cause the total number licenses for one or more business types to exceed the numerical limitations listed in section 110.12(c), the city clerk shall deny the application.
 - (2) If a situation arises in which the city clerk receives two or more applications in a single day, such that:
 - (A) one or more of the applications could be granted without exceeding the numerical limitations in section 110.12(c); but
 - (2) granting all of such applications would cause one or more numerical limitations to be exceeded;

The City Clerk shall refer the applications to City Commission. The City Commission will then determine which of the applications will be conditionally authorized pursuant to a competitive process established by resolution of the City Commission.
- (d) *Final authorization.* The city clerk will grant final authorization for the business if the conditionally authorized applicant:

- (1) Obtains all required zoning approvals for the business within 12 months of receiving conditional authorization; and
 - (2) Obtains the requisite state operating license within 18 months of receiving conditional authorization.
- (e) *Expiration of conditional authorization.* If the applicant for a conditionally authorized business fails to satisfy any of the deadlines established above, the conditional authorization will expire.

Sec. 110.14. Relocation of Businesses, Transfers of Licenses, and Expansion of Grow Operations.

- (a) An existing business may be moved to a new location in the City, subject to applicable zoning regulations and required approvals by LARA.
- (b) A license for an existing business may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by LARA.
- (c) No further City approvals are required for the relocations and license transfers described in this section.
- (d) A licensee may expand growing operations by upgrading the class of the license (e.g., from class A to class B, or from class B to Class C), or by obtaining a stacked license. To do so, the licensee must submit a new application to the City satisfying the requirements in Section 31-3(a), which shall include payment of any additional annual administrative fee that will be owed due to the addition of stacked licenses. The application shall be conditionally approved upon receipt of all required materials.

Sec. 110.15. General Regulations

- (a) *Submission of supplementary information to the City.* Applicants who have received conditional authorization and licensees operating in the City must provide the Clerk with copies of all documents submitted to LARA in connection with the license application, subsequent renewal applications, or investigations conducted by LARA. The documents must be provided to the Clerk within 7 days of submission to LARA, and may be submitted by electronic media unless otherwise requested by the Clerk.
- (b) *Compliance with applicable laws and regulations.* Marijuana businesses must be operated in compliance with the MMMFLA and/or MRTMA, as applicable, all applicable rules promulgated by LARA, all conditions of the business's state operating licenses, and all applicable ordinances and codes, including the City's zoning ordinance. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.
- (c) *No consumption on premises.* No smoking, inhalation, or other consumption of marijuana shall take place on or within the premises of any marijuana business approved under this division, except for designated marijuana consumption establishments. It shall be a violation of this subchapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marijuana on or within a premises in violation of this section:
 - (1) The person had control over the premises or the portion of the premises where the marijuana was consumed;
 - (2) The person knew or reasonably should have known that the marijuana was consumed; and
 - (3) The person failed to take corrective action.
- (d) *Annual fee.* A licensee must pay a fee an annual fee, set by resolution of the City Commission, for each license used within the City in order to help defray administrative and enforcement costs. The initial annual fee(s) must be paid to the Clerk when the application for approval is submitted.

In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license.

Sec. 110.16. Violations and penalties.

- (a) *Request for revocation of state operating license.* If at any time an authorized business violates this subchapter or any other applicable ordinance, the City may request that LARA revoke or refrain from renewing the business’s state operating license.
- (b) *Civil infraction.* It is unlawful to disobey, neglect, or refuse to comply with any provision of this subchapter. A violation of this subchapter is a municipal civil infraction and a nuisance per se. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to a fine of up to \$500.
- (c) *Other remedies.* The foregoing sanctions are in addition to the City’s right to seek other appropriate and proper remedies, including actions in law or equity.

Section 2. Repealer; Effect on Existing Businesses. Ordinance 320-2020 is hereby repealed. All marijuana business that were granted state operating licenses to operate pursuant to Ordinance 320-2020 or its predecessor ordinance that remain in operation as of the effective date of this ordinance are deemed to have been granted final authorization under this ordinance. All applications that were submitted pursuant to Ordinance 320-2020 that remain pending as of the effective date of this ordinance shall be deemed to be conditionally authorized hereunder as of the date the application was received. The regulations provided in this ordinance apply to all marijuana businesses in the City from its effective date onward.

Section 3. Publication and Effective Date. The City Clerk shall cause this ordinance to be published in a newspaper of general circulation in the City, and the ordinance shall be effective 20 days after enactment or upon publication, whichever is later.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This true and complete copy of Ordinance No. 341-2023 was declared adopted at a regular meeting of the Hartford City Commission held on _____, 2024.

 , Mayor

 , City Clerk

PC Hearing: February 26, 2024
 Introduced: First Reading March 25, 2024
 Adopted: _____, 2023
 Published: _____, 2023
 Effective: _____, 2023