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SUMMARY

AN ORDINANCE to amend Chapter 24 of the 1984 Detroit City Code, *Health and Sanitation;* by adding Article XIII, *Medical Marihuana Caregiver Centers*; by adding Sections 24-13-1 through 24-13-20; to establish standards and procedures for the review and input of the City of Detroit on the issuance, renewal and/or revocation of business licenses for medical marihuana caregiver centers, to set forth definitions, to require compliance with applicable state rules and regulations, to provide for the inspection of premises, to establish that a business license is required for the operation of a medical marihuana caregiver center, to authorize non-refundable fees, to establish an application process, to set forth violations and penalties, to provide procedures for suspension, revocation or denial of renewal of a license, and to set forth prohibited acts relative to the operation of a medical marihuana caregiver center licensed under this Article.

10-12-15 Rec'd at Table

1 **BY COUNCIL MEMBER_____:**

2 AN ORDINANCE to amend Chapter 24 of the 1984 Detroit City Code, *Health and Sanitation;* by
3 adding Article XIII, *Medical Marihuana Caregiver Centers*; by adding Sections 24-13-1 through 24-13-20;
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5 renewal and/or revocation of business licenses for medical marihuana caregiver centers, to set forth
6 definitions, to require compliance with applicable state rules and regulations, to provide for the
7 inspection of premises, to establish that a business license is required for the operation of a medical
8 marihuana caregiver center, to authorize non-refundable fees, to establish an application process, to
9 set forth violations and penalties, to provide procedures for suspension, revocation or denial of
10 renewal of a license, and to set forth prohibited acts relative to the operation of a medical marihuana
11 caregiver center licensed under this Article.

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

13 **Section 1.** Chapter 24 of the 1984 Detroit City Code is amended by adding Article XIII, *Medical*
14 *Marihuana Caregiver Centers*; by adding Sections 24-13-1 through 24-13-20, to read as follows:

15 **CHAPTER 24. HEALTH AND SANITATION**

16 **ARTICLE XIII. MEDICAL MARIHUANA CAREGIVER CENTERS**

17 **Sec. 24-13-1. Purpose.**

18 (a) The purpose of this Article is to establish standards and procedures for the review and
19 input of the City of Detroit on the issuance, renewal and/or revocation of business licenses for
20 medical marihuana caregiver centers in order to:

21 (1) Serve and protect the health, safety and welfare of the general public through reasonable
22 limitations on business operations as they relate to noise, air and water quality, food
23 safety, neighborhood and patient safety, security for the business and its personnel, and
24 other health and safety concerns;

1 (2) Regulate land use and operation of activities authorized by the Michigan Medical
2 Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, *et seq.*;
3 (3) Establish a set of rules and regulations that are fair and equitable for those interested in
4 establishing medical marihuana caregiver centers;
5 (4) Provide reasonable regulation pursuant to the city's general police power granted to cities
6 by the Michigan Constitution of 1963 and the Home Rule City Act, MCL 117.1 *et seq.*,
7 as amended;
8 (5) Authorize fees to cover the cost to the city of licensing medical marihuana caregiver
9 centers in an amount sufficient for the city to recover its costs of the licensing program;
10 (6) Adopt a mechanism for monitoring compliance with the provisions of this Article; and
11 (7) Clarify that operation of a medical marihuana caregiver center is a revocable privilege
12 and not a right in the city. There is no property right for an individual or business to have
13 a medical marihuana caregiver center in the City of Detroit.
14 (b) Nothing in this Article, or in any companion regulatory provisions adopted in any other
15 provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from
16 criminal prosecution for:
17 (1) Cultivation, sale, consumption, use, distribution, manufacture or possession of marihuana
18 in any form not in compliance with the Michigan Medical Marihuana Act, Initiated Law
19 1 of 2008, MCL 333.26421, *et seq.*; or
20 (2) Any criminal prosecutions under federal laws including seizure of property under the
21 Federal Controlled Substances Act, 21 U.S.C. Sec. 801 *et seq.*
22 **Sec. 24-13-2. Definitions.**
23 *Cultivation* or *cultivate* means (i) all phases of growth of marihuana from seed to harvest; or
24 (ii) preparing, packaging or repackaging, labeling, or relabeling of any form of marihuana.

1 *Department* means the City of Detroit Buildings, Safety Engineering and Environmental
2 Department or BSEED.
3 *Medical marihuana* means any marihuana intended for medical use that meets all
4 requirements for medical marihuana contained in this Article, the Michigan Medical Marihuana
5 Act, and any other applicable law. This shall not include butane hash oil or marihuana in any form
6 inconsistent with the definition of usable marihuana under the Act.
7 *Medical marihuana caregiver center* means a medical marihuana business operated by a
8 registered primary caregiver that distributes medical marihuana, in a manner authorized by the
9 Act, to registered qualifying patients as defined by the Act.
10 *Michigan Medical Marihuana Act* or *"the Act"* means Initiated Law 1 of 2008, MCL
11 333.26421, *et seq.*
12 *Person* means an individual, partnership, firm, company, corporation, association, sole
13 proprietorship, limited liability company, joint venture, estate, trust, or any other legal entity.
14 **Sec. 24-13-3. Compliance with state laws, rules and regulations.**
15 All activities related to medical marihuana caregiver centers shall be in compliance with the
16 General Rules of the Michigan Department of Licensing and Regulatory Affairs or successor
17 agency and the Michigan Medical Marihuana Act.
18 **Sec. 24-13-4. License Required.**
19 (a) Except for home occupations allowed under Chapter 61 of this Code (the Detroit Zoning
20 Ordinance) no person shall dispense, cultivate or provide medical marihuana under the Act except
21 at a medical marihuana caregiver center. Except as provided in subsection (b), no person shall own
22 or operate or hold an interest in a medical marihuana caregiver center in the city without first
23 obtaining a license from the Buildings, Safety Engineering and Environmental Department
24 (BSEED) Business License Center. A medical marihuana caregiver center operating without a

license issued under this Article shall immediately cease operations except as provided in subsection (b). A separate license is required for each medical marihuana caregiver center location. Only one (1) license may be issued per person.

(b) A medical marihuana caregiver center in operation on the effective date of this ordinance may continue to operate without a license only so long as all of the following provisions are satisfied and no zoning, permit or license applications or approvals have been denied:

(1) The operator has applied for zoning approval to operate a medical marihuana caregiver center within thirty (30) days after the effective date of this ordinance;

(2) The operator has obtained or has made significant progress in obtaining zoning approval to operate a medical marihuana caregiver center within sixty (60) days after the effective date of this ordinance;

(3) The operator has applied for a license under this Article within seven (7) days after receiving a building permit;

(4) After an application for a license has been submitted, BSEED shall conduct a radial search and verify the operator has obtained required zoning clearances, inspections and approvals; and

(5) The operator has obtained a license under this Article within sixty (60) days after receiving a building permit.

(c) The Department's Business License Center shall accept or reject the business license application within fifteen (15) days after receipt of a complete application, and:

(1) If the Department determines that an application is deficient, it shall forward written notification of the denial, including the reason for such denial, to the applicant; or

(2) If the Department accepts the application for processing, it shall forward the application for any required approvals or inspection to the Finance Department, the Department of

1 Health and Wellness Promotion, the Fire Department, the Police Department, other
2 divisions within BSEED, and any other necessary referrals to comply with this Article.
3 (d) The Department may deny any application where, within sixty (60) days after the date of
4 receipt of the initial application by the Department, the applicant has not made significant progress
5 towards fulfilling the requirements set forth in Sec. 24-13-6, has not made full payment of
6 applicable fees or has not received all other required approvals and inspections set forth in this
7 Article.
8 (e) Within thirty (30) days after issuance of the certificate of license the applicant shall
9 schedule an inspection with the Department to establish that the business has commenced
10 operations and is in compliance with this Article. Failure to schedule this inspection or commence
11 operations within thirty (30) days of issuance of the certificate of license, shall be deemed
12 abandonment of the license by the applicant.
13 (f) A license shall be issued or renewed upon payment of the required fee and submission of
14 a complete application in compliance with the provisions of this Article, and compliance with all
15 provisions and requirements of this Code and the Act. All medical marihuana caregiver center
16 business licenses expire on September 30 of each year. Application to renew a license to operate
17 a medical marihuana caregiver center shall be filed, with required fee, at least thirty (30) days prior
18 to the date of expiration with the Department. Such renewal shall be annual on October 1st and
19 shall be accompanied by the annual fee.
20 (g) The license requirements set forth in this Article shall be in addition to, and not in lieu of,
21 any other licensing and permitting requirements imposed by any other laws, rules or regulations.
22 (h) The issuance of any license pursuant to this Article does not create an exception, defense
23 or any other immunity for any potential criminal liability any person may have for the cultivation,
24 production, distribution, manufacture or possession of marihuana in any form, possession of illegal

drug paraphernalia, or presence in places where illegal drugs are being used, distributed, stored or kept.

(i) All licensed medical marihuana caregiver centers shall create and display a sign measuring at least 11 x 17 inches installed and maintained in a conspicuous location visible to all persons entering the premises located inside of the building which reads as follows:

THE MICHIGAN MEDICAL MARIHUANA ACT ACKNOWLEDGES THAT "FEDERAL LAW CURRENTLY PROHIBITS ANY USE OF MARIHUANA EXCEPT UNDER VERY LIMITED CIRCUMSTANCES." SEE MCL 333.26422(c). IF YOU HAVE ANY QUESTIONS OR CONCERNS PLEASE CONSULT WITH YOUR ATTORNEY.

(j) Upon issuance by the Department and after receipt by the applicant, a license that is issued under this article shall be posted at all times by the licensee inside the licensed premises in a conspicuous location near the entrance.

(k) Licenses issued under this Article shall not be sold, assigned, mortgaged or otherwise transferred.

Sec. 24-13-5. Fee.

(a) A non-refundable fee shall be charged for a license under this Article. In accordance with Chapter 30 of this Code, this fee shall be established by the Director of the Department based upon the cost of issuance and administration of the licensing regulations, and shall be approved by resolution of the City Council. The fee shall be posted on a schedule in the Department.

(b) The non-refundable fee under subsection (a) shall be charged to each new applicant and renewal applicant.

(c) Upon the expiration of a current license, each licensee shall pay the annual fee for a license renewal.

(d) Upon payment of applicable fees, approval of the complete application by the Department, and upon receipt of all other required approvals and inspections set forth in this Article, an annual license shall be issued.

Sec. 24-13-6. Application.

Every applicant for a license to maintain, operate or conduct a medical marihuana caregiver center shall file an application under notarized oath with the Department's Business License Center upon a form provided by the city. The application shall fulfill, at a minimum, all of the following requirements:

(a) As to the applicant or operator:

(1) The name, age, and address of the applicant;

(2) Name, age, and address of all business partners of the applicant, including proof from the Detroit Police Department that the applicant and all proposed employees are at least 21 years of age and have not been convicted of any felony within the past 10 years and have never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a;

(3) A signed release authorizing the Detroit Police Department to perform a criminal background check to ascertain whether the applicant named on the application meets the criteria set forth in paragraph (2).

(4) The information and documents required in paragraphs (1)-(3) shall be provided for the operator, where the operator differs from the applicant;

(5) In the case of corporations, partnerships, non-profit organizations, or any other duly organized business entities, the individual applying on behalf of the applicant shall be the highest level official or employee of the entity such as a board president, chief executive

officer, executive director, or comparable position with the following written proof of authority to act on behalf of the entity:

(i) If the applicant is a corporation, a copy of the articles of incorporation and current corporation records disclosing the identity and residential addresses of all directors, officers, and shareholders as well as the name and address of the registered agent. Include the address of the corporation itself, if different from the address of the medical marihuana caregiver center;

(ii) If the applicant is a partnership, the names and residential addresses of each of the partners and the partnership itself, if different from the address of the medical marihuana caregiver center, and the name and address of the registered agent;

(iii) If the applicant is a limited liability company, the names and residential addresses of each of the managers and members, if different from the address of the medical marihuana caregiver center, and the name and address of the registered agent;

(iv) If the applicant is any other legal entity, the names and residential addresses of each of the individuals which comprise or control such legal entity, if different from the address of the medical marihuana caregiver center, and the name and address of the registered agent;

(6) Government issued photo identification of the applicant and operator, such as a driver's license, state identification card or passport;

(7) The medical marihuana caregiver center history of the applicant and operator, including whether such person has had a business license suspended or revoked, the reason(s) for any suspension or revocation, and the business activity or occupation subsequent to such action of suspension or revocation; and

(8) Proof that the applicant, operator and their employees are registered primary caregivers.

1 (b) As to the proposed medical marihuana caregiver center location and premises:

2 (1) Verification that a zoning approval for a medical marihuana caregiver center has been

3 obtained for that location;

4 (2) The location and mailing address and all telephone numbers where the business is to be

5 conducted, and the name and address of the property owner, if different from the holder

6 of the license, and written evidence of the applicant's right to possession of the premises

7 for its intended use consistent with this Article;

8 (3) A statement that the applicant will not violate any of the laws of the State of Michigan or

9 this Code in conducting the business in which the license will be used, and that a violation

10 on the premises may be cause for nonrenewal of the license, or for requesting revocation

11 of the license under Sections 30-1-16 and 30-1-17 of the 1984 Detroit City Code;

12 (4) A description of the security plan for the caregiver center, including, but not limited to,

13 any lighting alarms, barriers, recording/monitoring devices, and/or security guard

14 arrangements proposed for the medical marihuana caregiver center and premises. The

15 Department may establish minimum security features in the application;

16 (5) Descriptions of the storage facilities and related equipment for all medical marihuana

17 regardless of its form; and

18 (c) As to the proposed medical marihuana caregiver center operations:

19 (1) Description of the process for tracking quantities and inventory controls for medical

20 marihuana in any form including any products received from outside sources. This shall

21 include on-site cultivation and processing, if any;

22 (2) A plan for the disposal of any medical marihuana in any form that is not sold including,

23 but not limited to, medical marihuana infused products. This plan shall protect against

1 any portion being possessed or ingested by any person or animal. Disposal by burning or
2 introduction into the sewerage system is prohibited;
3 (3) A description of the products and services to be provided by the medical marihuana
4 caregiver center, including retail sales of any item;
5 (4) Procedures for testing of contaminants, including mold, and labeling of products that
6 include medical marihuana in any form. All medical marihuana products shall be
7 provided in an enclosed package with a securely affixed label displaying, at minimum,
8 all of the following information:
9 (i) The name of the registered qualifying patient or visiting qualifying patient as defined
10 by the Act for whom the product is intended.
11 (ii) The name of the registered primary caregiver of the patient, if applicable.
12 (iii) The name and address and contact information of the medical marihuana caregiver
13 center.
14 (iv) The amount of medical marihuana obtained or used in the preparation of any product,
15 measured in ounces.
16 (v) The strain associated with the product and its source.
17 (vi) The date on which the product was obtained.
18 (vii) The words "WARNING: This product contains marihuana. For a registered
19 qualifying patient's medical use only," or substantially similar text.
20 (5) Recordkeeping requirements and access to premises and records by the Department.
21 **Sec. 24-13-7. Inspection of premises by Police Department and other authorized City**
22 **Departments.**
23 For the purpose of ensuring compliance with this Article, the owner, operator, or person in
24 control of a medical marihuana caregiver center, or other authorized agents and employees of a

medical marihuana caregiver center, shall permit members of the Police Department, or any employee or agent of a City department that is authorized by this Code, to inspect, during regular business hours, any portion of the premises, 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, including this Article.

Sec. 24-13-8. Inspection and approval of premises; structural, fire safety, and sanitation requirements.

(a) Before any license under this article is issued for a medical marihuana caregiver center, the application shall be referred to the appropriate divisions of the Buildings, Safety Engineering and Environmental Department, the Department of Health and Wellness Promotion, and the Fire Department for respective reports on compliance with all applicable state codes, rules, and regulations, and this Code, including, but not limited to, the following:

(1) Zoning. The medical marihuana caregiver center shall meet the requirements of the Detroit Zoning Ordinance, being Chapter 61 of this Code, including, but not limited to, obtaining a valid annual Certificate of Maintenance of Zoning Grant Conditions where the premises are governed by a zoning grant;

(2) Building and property maintenance codes. The premises shall meet the requirements of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, MCL 125.1501 *et seq.*, and the Detroit Property Maintenance Code, being Chapter 9, Article I, of this Code;

(3) Fire protection and safety. The premises of the establishment shall meet the requirements and limitations of the Detroit Fire Prevention and Protection Code, being Chapter 19, Article I, of this Code including, but not limited to, fire exits being a free and unobstructed means of exit and being marked and lighted in accordance with the Michigan Electrical

Code. Any portion of the premises where energy usage and heat exceeds typical usage, such as a grow room, and/or the storage of any chemicals such as herbicides, pesticides, or fertilizers shall be subject to inspection and approval annually by the Detroit Fire Department to ensure compliance with the Michigan Fire Prevention Code, 1941 PA 207, MCL 29.1 *et seq.*;

(4) Plumbing. All facilities on the premises shall meet the requirements of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, MCL 125.1501 *et seq.* and the Michigan Plumbing Code;

(5) Ventilation. Proper ventilation, either natural or mechanical, shall be provided so that each person in the premises will be supplied with one thousand two hundred (1,200) cubic feet of air per hour, or as required by the applicable state code, whichever is greater;

(6) Lighting. The medical marihuana caregiver center shall at all times have adequate lighting in every part of the licensed premises in compliance with the Michigan Electrical Code.

(7) Health and sanitation. All rooms housing toilet facilities shall be equipped with sanitary towels of a type acceptable to the Department of Health and Wellness Promotion. All rooms within the premises shall meet the requirements of the Michigan Public Health Code, 1978 PA 368, 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 all requirements of this Code.

Sec. 24-13-9. Police and Finance Departments investigations required.

(a) Upon application and before any license that is required by this article is issued or renewed, the Business License Center shall refer the application to both of the following:

(1) The Chief of Police, to his or her designee, who shall cause an investigation to be completed to determine whether the applicant, or any of the applicant's officers, partners, or members has been convicted of an offense involving any specified criminal activity, or of any felony concerning illegal narcotics, fraud, embezzlement or dishonesty; and

(2) The Finance Director, or his or her designee, who shall cause an investigation of the applicant and the location 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.

(b) A medical marihuana caregiver center license shall not be issued or renewed by the Business License Center until after both of the following have occurred:

(1) The Chief of Police has provided written confirmation that the applicant, or any of the applicant's officers, partners or members, do not have any felony convictions related to illegal narcotics, fraud, embezzlement or dishonesty;

(2) The Finance Director has provided 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.

Sec. 24-13-10. Approval of application.

The Department shall issue a license for a medical marihuana caregiver center if inspection for safety, zoning compliance, criminal history background checks, and all other information available to the City verify that the applicant has submitted a full and complete application, paid appropriate fees, has made improvements to the business location consistent with the application, and is prepared to operate the business in compliance with this Code and any other applicable law, rule or regulation. The Department shall deny any application that does not meet the requirements

of this Article or any other applicable law, rule or regulation, or an application that contains any false or incomplete information.

Sec. 24-13-11. Violations and penalties.

Any person, including owners, operators, or employees of the licensee, who is found to be in violation of this Article shall be

(a) guilty of a misdemeanor punishable by a fine of not more than $500.00, imprisonment of up to 90 days in jail, or both;

(b) subject to nonrenewal, revocation and/or suspension of its business license under Sections 30-1-16 and 30-1-17 of the 1984 Detroit City Code; and

(c) subject to any other sanctions or penalties under applicable laws, rules or regulations.

Sec. 24-13-12. License suspension, revocation, or denial of renewal.

(a) A license that is issued under this division may be suspended, revoked, or denied renewal in accordance with Chapter 30 of this Code.

(b) In addition to subsection (a), the Department may also suspend, revoke or deny renewal of a license in accordance with the procedures in Chapter 30 of this Code based on any of the following:

(1) A failure to meet the conditions or maintain compliance with the standards established by this Article in reference to application for a new license or the renewal of an existing license;

(2) One or more uncorrected violations of any City ordinance on the premises;

(3) Maintenance of a nuisance on the premises;

(4) A demonstrated history of excessive complaints for public safety intervention (police, fire, or EMS) relative to the caregiver center premises, being three or more calls in any 30-day period;

(5) Failure to obtain or maintain proof of a criminal background check for each employee confirming that they have not been convicted of any felony within the past 10 years and have never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a;

(6) Non-payment of any property or income taxes, special assessments, fines, fees or other financial obligations to the City; or

(7) Any other grounds for suspension, revocation or non-renewal set forth in this Code.

Sec. 24-13-13. Prohibited Acts.

(a) The following prohibitions shall apply to medical marihuana caregiver centers:

(1) Onsite use is prohibited. No medical marihuana shall be smoked, eaten, or otherwise consumed or ingested within the medical marihuana caregiver center or on its premises.

(2) Except for the following sentence, minors shall not be permitted within a medical marihuana caregiver center. A registered qualifying patient who is a minor shall be accompanied by a parent or legal guardian that serves as a registered primary caregiver under the Act.

(3) Drive through, walk-up or window access is prohibited.

(4) A medical marihuana caregiver center shall not be, or remain, open for business between the hours of 8:00 p.m. and 10:00 a.m. on any day.

(5) Transfer of medical marihuana in any form in excess of quantity limits under the Act is prohibited.

(b) Any conduct or act contrary to the Michigan Medical Marihuana Act or other applicable laws, rules or regulations is prohibited.

Secs. **24-13**-14 – **24-13**-20. Reserved.

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. In the event this ordinance is passed by two-thirds (2/3) majority of City Council Members serving, it shall be given immediate effect and become effective upon publication in accordance with Section 4-118 of the 2012 Detroit City Charter. Where this ordinance is passed by less than a two-thirds (2/3) majority of City Council Members serving, it shall become effective on the thirtieth (30) day after enactment, or on the first business day thereafter, in accordance with Section 4-118 of the 2012 Detroit City Charter.

Approved as to form:

Melvin B. Hollowell
Corporation Counsel