

CITY OF PERRY
COUNTY OF SHIAWASSEE
STATE OF MICHIGAN

ORDINANCE No. 361

CITY OF PERRY ORDAINS:

The City of Perry Codified Ordinance concerning Marihuana Establishments (Chapter 860) shall be and is hereby amended as follows, Chapter 860 is hereby repealed, and the below revised Chapter 860 is substituted in its place and stead:

**CHAPTER 860
Marihuana**

860.01 Marihuana establishments.

CROSS REFERENCES

Possession, use and transportation of marijuana - see GEN. OFF. 622.01

860.01 MARIHUANA ESTABLISHMENTS.

Except as provided in this chapter all marihuana establishments are prohibited, including but not limited to, recreational marihuana establishments within the boundaries of the City of Perry.

No marihuana establishments shall be commenced, operated or utilized in any zoning district, on or from any property within the City of Perry, except for medical marihuana provisioning centers as designated in Chapter 860.02.

860.02 PURPOSE.

- (a) It is the intent of this chapter to authorize the establishment of one (1) medical marihuana provisioning center in the City of Perry and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this chapter to affirm that the City of Perry is upholding its prohibition of all other marihuana establishments other than those specifically authorized by this chapter. It is also the intent of this chapter to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the city through imposition of an annual, nonrefundable fee, as defined by resolution of the City Council, on each medical marihuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. Further, the city does not intend that permitting and regulation under this chapter be construed as a finding that such facilities comply with any law.
- (b) The City of Perry considers it necessary and pertinent to authorize the establishment of one medical marihuana provisioning center facility through a limited application period and subsequent lottery system drawing to be specified by a resolution of City Council at the time such application period and lottery shall occur.
- (c) Nothing in this chapter is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities

Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.

- (d) As of the effective date of this chapter, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 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 chapter is intended to grant immunity from any criminal prosecution under federal laws.
- (e) All medical marihuana facility license holders must comply with all state building codes, including but not limited to plumbing, mechanical, electrical, building energy and fire codes which includes the city zoning ordinance, as applicable under law.

860.03 DEFINITIONS.

For the purposes of this chapter:

- (a) Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- (b) Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- (c) Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.

Conditional license means a document endorsed by the city which only recognizes that an entity or person has submitted a valid application to the city seeking to own and operate a business related to and regulated by the Michigan Medical Marihuana Facilities Licensing Act and has been selected as the “winner” of the City’s application selection lottery process. A conditional license grants no authority to possess, sell, market or deal marihuana in any fashion, whether for retail, trade, personal and/or patient medical use.

Grower means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

License means a permit authorized by the city conveying authority to an entity or person, to own and operate a business related to and regulated by the Michigan Medical Marihuana Facilities Licensing Act.

Licensee means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

Marijuana or *marihuana* means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

Marihuana facility means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

Medical marihuana establishment license means a valid medical marihuana establishment license issued by the city pursuant to the provisions of this chapter and state law.

Municipal license means a license issued by a municipality pursuant to the MMFLA that allows a person to operate a marihuana establishment in that municipality.

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

Processor means a licensee that is a commercial entity located in Michigan 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.

Provisioning center means a licensee that is a commercial entity located in the state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana 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 Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this chapter.

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

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.

State license means a license issued by the department that allows a person to operate a medical marihuana establishment within the state.

860.04 AUTHORIZATION OF FACILITIES AND FEE.

- (a) The maximum number of each type of medical marihuana facility allowed in the city shall be as follows:

Facility	Number
Grower	Prohibited
Processor	Prohibited
Provisioning center	1
Safety compliance facility	Prohibited
Secure transporter	Prohibited

- (b) City Council shall review the number of facilities allowed at the one (1) year mark of implementation to re-evaluate and determine if the number allowed needs to be adjusted. From that point on, every three (3) years, city council shall review the maximum number of each type of marihuana facility allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the city council.
- (c) A nonrefundable fee shall be paid, at the time of license renewal, by each marihuana facility licensed under this chapter in an annual amount as set by resolution of the city council.
- (d) The single provisioning center license shall be awarded via lottery. An application fee of five thousand dollars (\$5,000.00) shall be paid in full at the time that each application is submitted. Applications shall be accepted for a 30-day calendar period, to be determined by

city council resolution. All applicants with fully completed applications received within the application period will be entered into a lottery drawing on the day previously set by city council resolution and shall be open to the public. After City Council's review and approval of the lottery results, the "winner" will be awarded a conditional provisioning center license and will move forward in the formal licensing and approval process. The first and second "runners up" will maintain their lottery ranking positions in the event the "winner" is unable to complete the overall approval process within the approved time period. All other applicants in the lottery will receive a refund of two thousand five hundred dollars (\$2,500) within thirty (30) days of the lottery completion. Should the first and/or second "runners up" elect to withdraw at any time after the lottery is conducted, they will be refunded two thousand five hundred dollars (\$2,500) within thirty (30) days after their withdrawal is confirmed in writing to the City Clerk.

- (e) Should a provisioning center license be vacated or revoked, the city will hold a lottery to award the license to another applicant. The process shall mimic the steps outlined above but would be limited to the number of vacated or revoked license(s) available.

860.05 GENERAL LOCATION AND OPERATIONAL REQUIREMENTS.

- (a) Medical marihuana establishments shall be prohibited from being licensed and located on any parcel or lot within a residential zoning district as indicated on the city zoning map at the time of license application. The entire parcel or lot upon which a medical marihuana establishment is located shall be zoned for medical marihuana establishments.
1. Medical marihuana establishments shall be prohibited from being licensed and located within one thousand (1,000) feet of a pre-existing public or private school providing education in kindergarten or any grades one (1) through twelve (12). This distance shall be measured from the lot or parcel property line boundary of any school described above to the lot or parcel property line boundary of the medical marihuana establishment property, at their closest points.
 2. Medical marihuana establishments shall be prohibited from being licensed and located within one thousand (1,000) feet of a public library. This distance shall be measured from the lot or parcel property line boundary of any public library to the lot or parcel property line boundary of the medical marihuana establishment property, at their closest points.
 3. All marihuana shall be contained within the principal building and within an enclosed, locked facility in accordance with the MMFLA, as applicable.
 4. Marihuana establishment hours and days of operation may be limited, by the City's Zoning Ordinance, as a condition of license approval. The establishment premises shall be open to the city for inspection during all licensed hours of operation.
 5. Licensees shall report any other change in the information required by this chapter to the City Clerk prior to the implementation of the proposed change. Failure to do so may result in suspension or revocation of the license.
 6. Licensees shall provide to the city any changes to the medical marihuana establishment that require reporting to LARA under the requirements of PA 281.
- (b) Provisioning center location and operational requirements.
1. Consumption of marihuana shall be prohibited on the premises of a provisioning center, and a sign shall be posted on the premises indicating that consumption is prohibited on the premises

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2. Provisioning centers shall continuously monitor the entire premises on which they operate with surveillance systems that include security cameras and alarms. The establishment's point of contact (key holder) must respond promptly on site to any alarms. The video recordings shall be maintained in a secure, off-site location for a period of at least 30 days. Video recordings must be made available to law enforcement upon request if a possible crime is involved.
 3. Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law, public or common areas of the provisioning center shall be separated from restricted or non-public areas of the provisioning center by a permanent barrier. Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law, no marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
 4. All marihuana storage areas within the provisioning center must be separated from any customer/patient areas by a permanent barrier. Unless permitted by the MMMA and Medical Marihuana Facilities Licensing Act or applicable state law, no marihuana is permitted to be stored in an area accessible by the general public or registered customers/patients. Marihuana may be displayed in a sales area only if permitted by the MMMA or the Medical Marihuana Facilities Licensing Act.
 5. Provisioning center hours of operation open to the public shall be limited to between 8:00 A.M. and 10:00 P.M., seven days a week. Provisioning center hours of operation open to the public may be limited further as a condition of license approval.
- (c) A nonrefundable annual fee shall be paid by each marihuana establishment licensed under this chapter in an amount as set by the City Council and as listed in the city's fee schedule.

860.06 REQUIREMENTS AND PROCEDURE FOR ISSUING LICENSE.

- (a) No person shall operate a marihuana facility within the city without a valid marihuana facility license issued by the city pursuant to the provisions of this chapter, and state law.
 - (b) The license requirement in this chapter applies to all facilities whether operated for profit or not for profit.
 - (c) Every applicant for a license to operate a marihuana facility shall file an application in the Clerk's office upon a form provided by the city. The information required for the application shall not impose qualifications for the issuance of a medical marihuana establishment license that conflict with the MMFLA or rules promulgated by the Marihuana Regulatory Agency ("MRA"). A complete application for a license required under this chapter shall be made under oath and shall include all of the following information and any required attachments listed on the form:
 - 1) Business information including the name, physical address and parcel number(s), zoning district, mailing address if different from the physical address, phone number, building area, number of employees, and stated hours of operation.
 - 2) Applicant information including the name, address, phone number, email, and date of birth for highest level official or employee of the establishment to serve as the city's point of contact. This includes a copy of the applicant's state or federally issued photo identification and the applicant's State of Michigan Prequalification Status Letter.
 - 3) Operator information if different from the applicant, the applicant information shall be provided for the individual(s) responsible for day-to-day operations.
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- 4) License information concerning if the applicant and/or operator has been denied an application or license for a marihuana establishment in any other jurisdiction and the reasons why, or if the applicant and/or operator has had a marihuana establishment license suspended or revoked in any other jurisdiction and the reasons why, and the subsequent business activity or occupation of the applicant and/or operator subsequent to such action of suspension or revocation.
 - 5) Property owner information including the name, primary residence address, phone number, real property interest in the medical marihuana establishment, and all tenants and their legal interest described in detail. This includes proof of ownership or a copy of the lease. If the premise is to be purchased by the applicant, proof of an executed purchase agreement contingent on approval for desired use. If the premises are leased, written permission from the owner of the premises for the medical marihuana establishment shall be included.
 - 6) Facility information including the status of an alarm system with the alarm company name and contact information included. Required facility information includes the following:
 - i. Proof of insurance for fire damage in the amount of the value of the premises and liability insurance with the minimum limits of \$500,000, listing the city as an additional insured.
 - ii. Description of storage facilities for all marihuana to be stored on site.
 - iii. Description of security plan for the facility including, but not limited to, lighting, alarms, barriers, recording and monitoring devices, and security guard arrangements.
 - iv. Copy of special use permit application submitted in accordance with the Zoning Ordinance.
 - v. A list of any Material Safety Data Sheets for all nutrients, pesticides, and other chemicals proposed for use in the facility.
 - vi. Description and plan of all equipment and methods proposed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detectable from outside of the establishment property.
 - vii. A plan for the disposal of any marihuana and related byproducts proposed to be used as the establishment.
 - viii. Statement providing information regarding any other marihuana establishment/facility licenses that the applicant and/or operator is authorized to operate in any other jurisdiction within the state, or another state, and the applicant's involvement with each establishment/facility.
 - 7) Oath of Application provided on the application form.
 - 8) Release of Liability, Indemnification, and Waiver provided on the application form.
 - 9) Applications shall contain a clause requiring each applicant granted a license under this Chapter to indemnify and hold harmless the City, its officers, agents, employees and servants from all claims, suits or actions of every name, kind and description, brought by the Applicant for, or on account of damages resulting from litigation, pending, current or future, due to the denial or revocation of a license granted hereunder or any other loss or cost, including but not limited to
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that caused by the concurrent active or passive negligence of the City, its officers, agents, employees or servants, resulting from granting or denial of a license under this Chapter.

- (d) Applications to operate any marihuana facility shall include a photocopy of the "State of Michigan Prequalification Status Letter." Any application delivered to the city without the aforementioned prequalification status letter will be deemed incomplete and shall be rejected. Any delay due to the filing of an incomplete application shall be deemed the fault of the applicant and not the city.
- (e) Upon an applicant's completion of said form and furnishing of all required information and documentation, city staff shall receive the application and assign it a unique application identifier based on the date and time of receipt. The city staff shall act to approve or deny an application as fully complete no later than five (5) business days from the date the application was received.
- (f) Applicant's receipt of a conditional license from the city shall provide for reasonable time, but not more than twelve (12) months, to secure any and all subsequent and/or collateral permits as required by the state and/or city. Any applicant with a conditional license that has not completed every task as required by the state and/or the city, twelve (12) months after receipt of the conditional license from the city will result in revocation of applicant's city issued conditional license and denial of license.
 - (1) An extension of time may be granted upon the applicant's written request and showing of good cause for delay. A request for an extension of time shall also include the estimated time to remedy the delay. Any extension of time shall be at the sole discretion of the city.
- (g) Within twenty (20) business days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, city staff shall approve or deny the marihuana facility license.
- (h) Maintaining a valid marihuana facility license issued by the state is a condition for the issuance and maintenance of a marihuana facility license under this chapter and continued operation of any marihuana facility.
- (i) A marihuana facility license issued under this chapter is exclusive to the licensee and facility location and may be transferable or relocated, if all of the following are met:
 - (1) The licensee submits to the city clerk a written request to transfer license or relocate indicating the current licensee / location and the proposed licensee / location;
 - (2) The proposed location / proposed licensee meet(s) all of the conditions for obtaining a license under this chapter;
 - (3) Proposed licensee or current licensee with new location delivers the application fee, in full, as required by Perry City Ordinance 860.03(d);
 - (4) Proposed licensee or current licensee with new location submits a complete license application as required by this chapter; and
 - (5) As soon as reasonably possible, after the city clerk is in receipt of the aforementioned items, licensee's request to transfer a license issued under this chapter to a different location, or individual or entity shall be reviewed by council. At the sole discretion and satisfaction of the council, the transfer shall be approved by resolution. After Council's resolution granting the approval, transfer or relocation will not be completed until all State requirements are fulfilled.

The attempted transfer, sale, or other conveyance of an interest in a license without resolution approving transfer by council is grounds for suspension or revocation of the license.

860.07 LICENSE RENEWAL.

- (a) A marihuana facility license shall be valid for one (1) year from the date of issuance, unless revoked as provided by law.
- (b) A valid marihuana facility license may be renewed, on an annual basis, by submitting an application and payment of the annual license fee. Application to renew a marihuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.
- (c) Applications for renewal or amendment of existing permits shall be reviewed and granted or denied before applications for new permits are considered.

860.08. APPLICABILITY.

The provisions of this chapter shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this chapter.

860.09 PENALTIES AND ENFORCEMENT.

- (a) Any person who violates any of the provisions of this chapter shall be responsible for a municipal civil infraction. Each day a violation of this chapter continues to exist constitutes a separate violation. A violator of this chapter shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- (b) A violation of this chapter is deemed to be a nuisance per se. In addition to any other remedy available by 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 chapter.
- (c) This chapter shall be enforced and administered by the city official as may be designated from time to time by resolution of the city council. Actions to address a violation of this chapter are detailed in Chapter 202.99 of the City's codified ordinances.
- (d) A license issued under this chapter may be suspended or revoked for any of the following violations:
 - (1) Any person required to be named on the permit application is convicted of or found responsible for violating any provision of this chapter;
 - (2) A permit application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the city with any other false or misleading information related to the facility;
 - (3) Any person required to be named on the permit application is convicted of a crime which, if it had occurred prior to submittal of the application, could have been cause for denial of the permit application;
 - (4) Marihuana is dispensed on the business premises in violation of this chapter or any other applicable state or local law, rule or regulation;
 - (5) The facility is operated or is operating in violation of the specifications of the permit application, any conditions of approval by the city or any other applicable state or local law, rule or regulation.
 - (6) The city, the county, or any other governmental entity with jurisdiction, has closed the facility temporarily or permanently or has issued any sanction for failure to comply with health and safety provisions of this chapter or other applicable state or local laws related to public health and safety.

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- (7) The facility is determined by the city to have become a public nuisance.
 - (8) The facility's state operating license has been suspended or revoked.
 - (9) An offensive odor is determined to be emanating from the facility. City official confirmation of condition required.
- (e) Possession, sale or consumption of any form of alcohol is strictly prohibited in any licensed medical marihuana facilities.


860.10 SEVERABILITY.

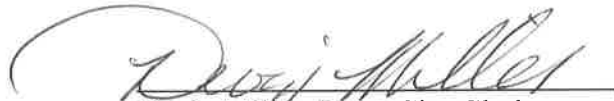
In the event that any one (1) or more sections, provisions, phrases or words of this chapter shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this chapter.

This Ordinance shall take effect 30 days from date of publication.

Adopted this 21st day of April, 2022

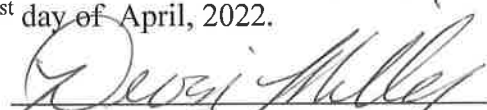
Published: April 27, 2022


Susan J. Hammond, Mayor


Devin Miller, Perry City Clerk

CERTIFICATION

I, the undersigned, and duly qualified and acting City Clerk of the City of Perry, Shiawassee County, Michigan, DO HEREBY CERTIFY that the foregoing was introduced at a regular meeting of the Perry City Council on the 7th day of April, 2022 and was duly adopted at a regular meeting of the Perry City Council on the 21st day of April, 2022.


Devin Miller, Perry City Clerk