

**CITY OF ITHACA, MICHIGAN
ORDINANCE NO. 2018-02**

**AN ORDINANCE
AMENDING THE ITHACA CODE OF ORDINANCES
BY ADDING A NEW CHAPTER 5
AND
BY AMENDING CHAPTER 32 TO ADD A NEW ARTICLE V**

THE PEOPLE OF THE CITY OF ITHACA, MICHIGAN DO ORDAIN:

SECTION 1. Chapter 5: Marihuana is hereby created and shall read as follows:

**CHAPTER 5
MARIHUANA**

Article I. In General

Secs. 5-1 – 5-30 Reserved

Article II. Marihuana Establishments and Facilities

Sec. 5-31 Intent

Sec. 5-32 Definitions

Sec. 5-33 Prohibition on Marihuana Establishments
and Facilities

Sec. 5-34 Rights Unaffected by Article Application

Secs. 5-35 – 5-57 Reserved

ARTICLE 1. IN GENERAL

Secs. 5-1 – 5.30. Reserved.

ARTICLE 2. MARIHUANA ESTABLISHMENTS AND FACILITIES

Sec. 5-31. Intent.

In the interest of preserving the public peace, health, safety and welfare of the City of Ithaca by prohibiting the creation and operation of marihuana establishments and facilities, this ordinance is established.

Sec. 5-32. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

IHRA means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*

Marihuana establishment means that term as defined in the MRTMA.

Marihuana facility means that term as defined in the MMFLA.

MMFLA means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.

MMMA means the Michigan Medical Marihuana Act, 2008 IL 1, as amended.

MRTMA means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

Sec. 5-33. Prohibition of Marihuana Establishments and Facilities.

(a) Pursuant to the provisions of Section 6.1 of the MRTMA, and Section 205 of the MMFLA (the “Acts”), marihuana establishments and facilities, as defined by the Acts, are completely prohibited within the boundaries of the City.

(b) Any applicant for a state or local license to establish a marihuana establishment or facility, as defined by the Acts, within the boundaries of the City shall be deemed to be not in compliance with this Ordinance or with the Code of Ordinances amended by this Ordinance.

Sec. 5-34. Rights Unaffected by Article.

(a) Except as specifically provided in Section 5-33, this article does not supersede the rights, privileges or obligations of any individual or other person preserved under the MRTMA.

(b) This article does not supersede the rights, privileges or obligations with respect to the transportation of marihuana through the City to the extent provided by the Acts.

(c) This article does not supersede the rights, privileges or obligations under Michigan law with respect to the establishment and licensing of medical marihuana facilities under the MMMA, the MMFLA or any other federal or State of Michigan law, rule or regulation allowing for or regulating marihuana for medical use.

(d) This article does not affect the rights, privileges or obligations of any individual or other person under the IHRA.

SECTION 2. Article V “*Prohibition on Sale and Consumption of Marihuana in Public Places,*” is added to Chapter 32, “*Streets, Sidewalks and Other Public Places,*” of the Code of Ordinances of the City of Ithaca to read as follows:

CHAPTER 32
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Article V. Prohibition on Sale and Consumption of Marihuana in Public Places

Sec. 32-135 Intent

Sec. 32-136 Definitions

Sec. 32-137 Prohibition on Sale and Consumption of Marihuana in Public Places

Sec. 32-138 Rights Unaffected by Article

Sec. 32-139 Penalties

Secs. 32-140 – 32-172 Reserved

ARTICLE V. PROHIBITION ON SALE AND CONSUMPTION OF MARIHUANA IN PUBLIC PLACES

Sec. 32-135. Intent.

In the interest of preserving the public peace, health, safety and welfare of the City of Ithaca by prohibiting the sale and consumption of marihuana in public places within the City of Ithaca, this ordinance is established.

Sec. 32-136. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

IHRA means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*

Marihuana establishment means that term as defined in the MRTMA.

Marihuana facility means that term as defined in the MMFLA.

MMFLA means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.

MMMA means the Michigan Medical Marihuana Act, 2008 IL 1, as amended.

MRTMA means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

Public places mean the following:

- 1) Public street and alley rights-of-way (ROW), including public sidewalks
- 2) Public parks, recreation areas, trails, pathways and cemeteries
- 3) Publicly-owned/leased parking lots
- 4) Publicly-owned/leased buildings, structures and grounds

Publicly-owned/leased means real property owned or leased by or under the control of a public governmental entity, including, but not limited to cities, townships, counties, special purpose districts, the State of Michigan or the United States Government, or creations, authorities and other entities created by those governmental entities.

Public ROW (right-of-way) means real property owned or leased by or under the control of a public governmental entity, including, but not limited to, improved or unimproved streets, alleys, easements, sidewalks, and parking strips (the area between the sidewalk and the paved street or road) used for the purpose of vehicle and pedestrian transportation, property access, and public or private utility infrastructure (including, but not limited to, sanitary sewers, storm sewers, watermains, electric distribution lines, and telecommunications equipment.)

Sec. 32-137. Prohibition on Sale and Consumption of Marihuana in Public Places.

(a) In conformance with Sections 4.1(e) and 6.2(b) of the MRTMA, and the MMFLA (the “Acts”) except as otherwise provided in this section, the sale or consumption of marihuana in any form and the sale or display of marihuana accessories, as defined by the MRTMA, is prohibited in any public places within the boundaries of the City.

(b) Notwithstanding the limitations set forth in subsection (a) hereof, marihuana may be consumed where approval is granted by the City Council for the consumption of marihuana at a City-approved festival or activity in areas designated by the City for such festival or activity and that are not accessible to persons under 21 years of age.

Sec. 32-138. Rights Unaffected by Article.

(a) Except as specifically provided in Section 32-137, this article does not supersede the rights, privileges or obligations of any individual or other person preserved under the MRTMA.

(b) This article does not supersede the rights, privileges or obligations with respect to the transportation of marihuana through the City to the extent provided by the Acts.

(c) This article does not supersede the rights, privileges or obligations under Michigan law with respect to the establishment and licensing of medical marihuana facilities under the MMMA, the MMFLA or any other federal or State of Michigan law, rule or regulation allowing for or regulating marihuana for medical use.

(d) This article does not affect the rights, privileges or obligations of any individual or other person under the IHRA.

Sec. 32-139. Penalties.

Any person who violates any of the provisions of this section shall be responsible for a municipal civil infraction punishable by a civil fine of \$500, plus court-imposed costs.

SECTION 3. 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 other words of this Ordinance.

SECTION 4. Conflict and Repeal. All ordinances or parts of ordinances in conflict with this ordinance are repealed.

SECTION 5. Effective Date. In accordance with Chapter V of the City of Ithaca Charter, the adoption of this ordinance is hereby declared an emergency effecting the public peace, health,

safety and welfare and this ordinance shall, therefore, be effective immediately upon its adoption.

SECTION 6. Publication. After its adoption, this ordinance or a summary thereof, as permitted by law, shall be published by the City Clerk in a newspaper of general circulation in the City.

ORDINANCE DECLARED ADOPTED THIS 4TH DAY OF DECEMBER, 2018.

Ayes: (7) Koppleberger, Andrew, Baublitz, Gray, Gruesbeck, Hubbard, Schafer

Nays: (0) None

Absent: (0) None

Abstain: (0) None

Barbara Fandell, Clerk-Treasurer

Introduced: 12/04/2018

Adopted: 12/04/2018

Effective (Emergency): 12/04/2018

Published: 12/13/2018