

ORDINANCE 2018 - \_\_

An Ordinance amending Chapter 28 of the Code of Ordinances, City of Jackson, Michigan to establish zoning districts and regulations for medical marihuana facilities for the health, safety and welfare of the citizens of Jackson.

THE PEOPLE OF THE CITY OF JACKSON ORDAIN:

Section 1. Purpose. To create zoning district and other zoning regulations for medical marihuana facilities for the health, safety and welfare of the citizens of Jackson.

Section 2. That Chapter 28 of the Code of Ordinances of the City of Jackson, Michigan, and the same hereby is, amended to read as follows:

**ARTICLE I. IN GENERAL**

**Sec. 28-5. - Definitions<sup>1</sup>.**

Unless context indicates otherwise, the following words and phrases used in this chapter have these meanings:

*Arcade* means an establishment wherein the operation of coin-operated amusement devices as defined in Chapter 16 of this Code is conducted as the principal business thereof. For “video arcade” please see the definition within this section.

*Enclosed Locked Facility* means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground and as defined in the MMMA. If this definition is amended by state law, the amended definition shall apply.

*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, provisioning center, or another grower.

*LARA* means the State of Michigan Licensing and Regulatory Affairs division which is charged with administration and enforcement of the Michigan Medical Marihuana Act and the Michigan Medical Marihuana Facilities Licensing Act.

---

<sup>1</sup> The definitions in this Ordinance are in addition to the existing definitions in Section 28-5 of the City of Jackson Code of Ordinances. This ordinance does not alter or delete any existing Code definition.

---

*Licensee* means a person holding a state operating license and a City of Jackson license to operate a medical marihuana facility.

*Marihuana* means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106, and does not include industrial hemp as defined in the Industrial Hemp Research and Development Act.

*Marihuana plant* means any plant of the species *Cannabis sativa* L.

*Marihuana Establishments* means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by LARA. This term does not include an industrial hemp growing or processing facility.

*Medical marihuana facility* means a grower, processor, provisioning center, safety compliance facility or secured transporter as defined herein and as defined in the Michigan Medical Marihuana Facilities Licensing Act and its rules and regulations, as amended that has a current license to operate from both the State of Michigan and the City of Jackson. This term does not include an industrial hemp growing or processing facility.

*Michigan Medical Marihuana Act* or *MMMA* means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended.

*Michigan Medical Marihuana Facilities Licensing Act* or *MMMFLA* means the Michigan Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.2701 et seq., as amended.

*Michigan Regulation and Taxation of Marihuana Act* or *MRTMA* means the Act passed by the voters of the State of Michigan at the November 6, 2018 election which is expected to be referred to as Initiative Law 1 of 2018.

*Medical Marihuana Rules, Emergency Rules, or Rules*, means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.

*Park* means an area of land used for the enjoyment of the public, having facilities for rest and recreation.

*Playground* means any outdoor facility (including parking lots appurtenant thereto) intended for recreation open to the public, and with any portion thereof containing three or more separate apparatus for the recreation of children including, but not limited to, slides, swing sets, and teeterboards.

*Primary caregiver* or caregiver means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past ten (10) years and has 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, Act 175 of 1927, MCL 770.9a.

*Provisioning center* means a licensee that is a commercial entity located in this 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 through LARA'S marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this Act.

*Qualifying patient or patient* means a person who has been diagnosed by a physician as having a debilitating medical condition alleviated by the use of medical marihuana, and who is registered through LARA to grow and consume marihuana.

*Registered primary caregiver* means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act.

*Registered qualifying patient* means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

*Registry identification card* means that term as defined in section 3 of the Michigan Medical Marihuana Act.

*Safety compliance facility* means a licensee that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana 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 operating license* or, unless the context requires a different meaning, *license* means a license that is issued under this act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower;
- (ii) A provisioning center;
- (iii) A secure transporter; or
- (iv) A safety compliance facility.

*Youth center* means any recreational facility and/or gymnasium (including any parking lots appurtenant thereto), intended primarily for use by person under 18 years of age, which regularly provides athletic, civic, or cultural activities.

*Video arcade facility* means any facility legally accessible to person under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

**ARTICLE III. ZONING DISTRICT REGULATIONS**

**Sec. 28-71. Permitted and conditional uses.**

The following uses are permitted (P), or conditional (C) within the zoning districts. Conditional uses require approval by the planning commission according to the procedures of section 28-147.

|                                   |  | Zoning Districts |     |     |     |     |     |     |     |     |     |     |     |
|-----------------------------------|--|------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
|                                   |  | R-1              | R-2 | R-3 | R-4 | R-5 | R-6 | C-1 | C-2 | C-3 | C-4 | I-1 | I-2 |
| (96) Medical marihuana facilities |  |                  |     |     |     |     |     |     |     |     |     |     |     |
| a.                                | Grower facility in accordance with Sec. 28-140 of the Code               |                  |     |     |     |     |     |     |     |     |     | P   | P   |
| b.                                | Registered primary caregiver in accordance with MMMA and Chapter 16      | P                | P   | P   | P   | P   | P   | P   | P   | P   | P   | P   | P   |
| c.                                | Provisioning center facility in accordance with Sec. 28-140 of the Code. |                  |     |     |     |     |     |     |     |     | P   |     |     |
| d.                                | Secure transporter facility.   |                  |     |     |     |     |     |     |     |     |     | P   | P   |
| e.                                | Safety compliance facility in accordance with Sec. 28-140 of the Code.   |                  |     |     |     |     |     |     |     |     | P   | P   | P   |

(Renumber the rest of Sec. 28-71, table of permitted and conditional use uses)

**ARTICLE IV. - SITE AND BUILDING DESIGN STANDARDS**

**Sec. 28-100. - Off-street parking, loading, and access design standards.**

(a) *General provisions for off-street parking.*

(6) *Parking lot setbacks for uses other than one- or two-family dwellings.* Parking lots, including drives and maneuvering aisles, but excluding driveways, must maintain a minimum of a five (5) foot setback from the abutting right-of-way(s) and abutting property lines. Where two unlike zoning districts abut, a minimum of an eight (8) foot setback shall be maintained. However, front yard setbacks for warehousing and medical marihuana transporter establishments shall be equal to the established front yard building line of the subject parcel. The zoning administrator (or designee) may waive this requirement where a shared access driveway, connected parking lots, or rear service drive is provided, or where landscaping, a wall or a fence is provided to screen views and headlight glare. Required parking lot setback areas must be landscaped according to the standards of Section 28-105 of this chapter.

(c) *Off-street parking space requirements.*

(1) *General off-street parking requirements.* The requirements in this subsection apply to uses outside of the downtown. Please refer to subsection (c)(2) of this section for the off-street parking requirements which apply in the C-3 district.

| <b>Table of General Off-Street Parking Space Requirements</b>   |                                |             |   |
|---|--------------------------------|-------------|---|
| <b>Use</b>  | <b>Range of Parking Spaces</b> |             |   |
|   | <b>Min.</b>                    | <b>Max.</b> | <b>Measurement</b>  |
| <b>Commercial uses</b>  |                                |             |   |
| Convenience stores and medical marihuana provisioning centers of greater than or equal to 5,000 square feet in GFA  | 1.00                           | 2.00        | spaces per 150 square feet of GFA, and  |
|   | 1.00                           | 1.00        | space for each 2.5 seats of on-site seating, and                                    |
|   | 1.00                           | 1.00        | space per each employee based upon the peak shift                                   |
| General commercial and retail sales establishments (excluding convenience stores, liquor stores) and medical marihuana provisioning centers of less than 5,000 square feet in GFA | 5.00                           | 5.00        | spaces; and   |
|   | 1.00                           | 1.50        | spaces per 1,000 square feet of UFA for stores up to 25,000 square feet of GFA; and |
|   | 0.50                           | 1.75        | spaces per each additional 1,000 square feet of UFA for stores greater than 25,000  |

|   |      |      |  |
|---|------|------|--|
|   |      |      | square feet of GFA such as shopping centers, discount stores, club warehouses, home improvements centers and grocery stores; and |
|   | 0.00 | 0.25 | spaces per 1,000 square feet of UFA of outdoor display and sales areas   |
|   | 1.00 | 1.10 | spaces per employee on maximum shift   |
| <b>Industrial uses</b>  |      |      |  |
| Light and general manufacturing, research establishments, testing labs, development centers, and medical marihuana grower (excluding registered primary caregiver) and safety compliance facility | 2.00 | 5.00 | spaces; plus   |
|   | 1.00 | 1.10 | spaces per employee on maximum shift; and the spaces required for any office or sales area                                       |
| Warehousing and medical marihuana secure transporter establishments   | 2.00 | 5.00 | spaces; plus   |
|   | 1.00 | 1.10 | spaces per employee on maximum shift; and  |
|   | 1.00 | 1.10 | spaces for each vehicle to be stored on the premises   |

(f) *Commercial vehicle parking and storage.*

(7) No vehicles used by secured transporters may contain any medical marihuana when a driver or passenger is not present in the vehicle.

**Sec. 28-110. - Environmental protection standards.**

(d) *Standards for limiting the external effect of uses.* All uses must comply with the following standards which limit their effect on the surrounding area:

(2) Every use must be so operated that it is not obnoxious or dangerous to adjacent properties by reason of the following:

c. *Odor.* The emission of odors found to be obnoxious to any considerable number of persons at their place of residence or place of business is prohibited.

(3) *Outdoor storage and waste disposal.*

e. Screening of trash storage areas. Any new or altered use which has an outdoor trash storage area containing a dumpster, must comply with the following requirements:

1. Any such area is to be limited to normal refuse which is collected on a regular basis and must be maintained in a neat, orderly, and sanitary condition.
2. In no instance may any such refuse be visible above the wall, as required in subsection (e) (3) of this section.

(e) *Hazardous materials.*

- (3) *Outdoor aboveground storage.* Secondary containment structures must be designed to protect containers from the effects of storms, wind, fire and vandalism. Structures that are covered and protected from rain and precipitation must provide secondary containment for ten (1) percent of the volume of all containers or the volume of the largest container, whichever is greatest. Structures that are not protected from rain and precipitation must provide secondary storage capacity to hold one hundred fifty (150) percent of the stored substances unless the zoning administrator (or designee) or planning commission approves a less quantity. Whether open or covered, the above ground storage area shall also be fully screened from view at all abutting parcel perimeters. Outdoor storage of medical marihuana must comply with State law requirements.

(f) *Storage of flammable or explosive materials.* The location or storage of flammable or explosive materials will be regulated as follows. However, section 28-145 of this chapter may contain additional requirements for certain conditional uses. The storage of normal household chemicals is exempt from these regulations.

- (3) Said containers or storage facilities must be at least forty (40) feet from any side or rear lot line and one hundred fifty (150) feet from the front lot line as measured from the edge of the street right-of-way, unless a shorter distance is required by State law.

(g) *Medical marihuana regulations.* The following regulations shall apply to medical marihuana facilities:

- (1) The storage of medical marihuana waste shall be in accordance with the Michigan Medical Marihuana Facilities Licensing Act and the rules and advisory bulletins promulgated therefore, as amended.
- (2) Medical marihuana facilities shall comply with all federal, state, and local stormwater requirements.
- (3) Medical marihuana facilities shall comply with all federal, state, and local wastewater requirements.

**Sec. 28-115. Building design standards for medical marihuana facilities.**

- (h) In addition to the building design standards outlined in sections (a) – (f), the following standards shall apply to all medical marihuana facilities:
  - (1) Except when being transported by a licensed secure transporter, all medical marihuana must be in an enclosed, locked facility having a permanent foundation, walls and a roof.
  - (2) A roof on a grow facility may consist of a sturdy transparent material, such as glass, approved by the Chief Building Official, to allow for sunlight into the growing area of the building. If such transparent material is utilized, it must be fully covered with a non-transparent material between dusk and dawn that prevents interior lighting to escape through the roof.
  - (3) In addition to all State requirements, if any portion of a building is used as a medical marihuana facility, a partition wall of a height required by applicable building codes shall separate the marihuana from the remainder of the building. A masonry partition wall must include a door, capable of being closed and locked, for ingress and egress between the area containing marihuana and the remainder of the building.

**ARTICLE V. - DEVELOPMENT APPROVAL PROCEDURES**

**Sec. 28-130. - Nonconforming lots, buildings, signs, structures, and uses of buildings, structures and land**

- (k) Nonconforming medical marihuana facility uses.

Medical marihuana dispensaries, provisioning centers, grow operations, secured transporters, or any marihuana facility or establishment of any type, other than that of a licensed caregiver operating within the limits of the Michigan Medical Marihuana Act, which may have been established prior to the effective date of this ordinance, but which have not gained a license from both the State of Michigan and the City of Jackson shall not be considered legally nonconforming uses. In addition, no marihuana facilities may be permitted as a home occupation or accessory use.

**Sec. 28-140. - Additional development requirements for certain permitted uses.**

The following minimum nondiscretionary standards must be met for the permitted uses specified in this section:

- (2) *Medical marihuana facility use setbacks.* Medical marihuana facilities, excluding transport facilities, must comply with the following use setback requirements:
  - a. Setback of one thousand (1,000) feet of any public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;



- b. Setback of one thousand (1,000) feet of a park and/or playground;
- c. Setback of one thousand (1,000) feet of a housing facility owned by a public housing authority;
- d. Setback of one thousand (1,000) feet of a day care facility, including any and all accessory uses/facilities.
- e. Setback of two hundred and fifty (250) feet of a residentially zoned parcel;
- f. Setback of five hundred (500) feet of a church or other house of worship that has received tax exempt status from the City Assessor;
- g. Setback of five hundred (500) feet of another medical marihuana business establishment as measured from the closest building line unless co-location has been approved by the City;
- h. Setback one hundred (100) feet of a public or private youth center, swimming pool, or video arcade facility;
- i. All distances shall be measured from property line to property line except as noted in subsection (2) f above;
- j. For parcels upon which the use setbacks extend inside the property lines, the building setbacks (see Sec. 28-74 and Sec. 28-75) shall be measured from said use setback instead of the property line. The remaining portion of the parcel that lies within the required use setback must be returned to its natural state (no structures shall remain). All other Chapter 28 (zoning) requirements shall apply.

*(A graphic will be inserted into the Code to clarify use setback inside property lines.)*

- k. All other applicable Chapter 28 regulations shall apply to such uses; and
- l. The outdoor cultivation of medical marihuana must comply with the LARA Rules and applicable State law, as amended.

Section 3. This Ordinance takes effect on the date that a companion licensing ordinance for marihuana goes into effect.