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17Dec2015

S U M M A R Y

AN ORDINANCE to amend Chapter 61 of the 1984 Detroit City Code, '*Zoning*,' by adding Secs. 61-3-351, 61-3-352, 61-3-353, 61-3-354, 61-11-316, 61-12-80, 61-12-343, 61-12-374, 61-12-394, and 61-14-58.5 and amending Secs. 61-3-322, 61-3-326, 61-9-44, 61-9-84, 61-10-24, 61-10-44, 61-10-64, 6-10-84, 61-11-304, 61-12-92, 61-12-95, 61-12-96, 61-12-381, 61-12-443, 61-14-59, 61-14-60, 61-14-61, 61-14-62, 61-14-63, 61-14-64, 61-16-54, 61-16-131, 61-16-132, and 61-16-153 to provide for: adding medical marihuana caregiver centers as a conditional use in B2, B4, M1, M2, M3 and M4 zoning districts outside of Gateway Radial Thoroughfare and Traditional Main Street overlay areas; to prohibit medical marihuana caregiver centers within drug-free zones; to include spacing requirements; to provide for cultivation of medical marihuana as a home occupation; to limit waivers of spacing requirements for medical marihuana caregiver centers; to add definitions related to medical marihuana; to add parking requirements related to medical marihuana caregiver centers; and to provide certain non-substantive corrections.

1

Received @ table 12/17/15 (Special Session)

BY COUNCIL MEMBER_____:

AN ORDINANCE to amend Chapter 61 (Zoning) of the 1984 Detroit City Code by adding Secs. 61-3-351, 61-3-352, 61-3-353, 61-3-354, 61-11-316, 61-12-80, 61-12-343, 61-12-374, 61-12-394, and 61-14-58.5 and amending Secs. 61-3-322, 61-3-326, 61-9-44, 61-9-84, 61-10-24, 61-10-44, 61-10-64, 61-10-84, 61-11-304, 61-12-92, 61-12-95, 61-12-96, 61-12-381, 61-12-443, 61-14-59, 61-14-60, 61-14-61, 61-14-62, 61-14-63, 61-14-64, 61-16-54, 61-16-131, 61-16-132, and 61-16-153 to provide for: adding medical marihuana caregiver centers as a conditional use in B2, B4, M1, M2, M3 and M4 zoning districts outside of Gateway Radial Thoroughfare and Traditional Main Street overlay areas; to prohibit medical marihuana caregiver centers within drug-free zones; to include spacing requirements; to provide for cultivation of medical marihuana as a home occupation; to limit waivers of spacing requirements for medical marihuana caregiver centers; to add parking requirements related to medical marihuana caregiver centers; and to add definitions related to medical marihuana; and to provide certain non-substantive corrections.

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

Section 1. Chapter 61 of the 1984 Detroit City Code, *"Zoning,"* commonly known as the Detroit Zoning Ordinance, is amended by adding Secs. 61-3-351, 61-3-352, 61-3-353, 61-3-354, 61-11-316, 61-12-80, 61-12-343, 61-12-374, 61-12-394, and 61-14-58.5 and amending Secs. 61-3-322, 61-3-326, 61-9-44, 61-9-84, 61-10-24, 61-10-44, 61-10-64, 61-10-84, 61-11-304, 61-12-92, 61-12-95, 61-12-96, 61-12-381, 61-12-443, 61-14-59, 61-14-60, 61-14-61, 61-14-62, 61-14-63, 61-14-64, 61-16-54, 61-16-131, 61-16-132, and 61-16-153 as follows:

CHAPTER 61. ZONING.

ARTICLE III. REVIEW AND APPROVAL PROCEDURES (PART 1)

DIVISION 9. CONTROLLED USES

Subdivision D. Approval Criteria, Conditions and Guarantees, Appeals, Denials, Lapse of Approval.

Sec. 61-3-322. Conditions and guarantees.

(a) Certain modifications of numeric standards for Controlled Uses may be granted in accordance with Sec. 61-4-82 of this Code.

(b) The Buildings, ~~and~~ Safety Engineering and Environmental Department, or the Board of Zoning Appeals upon appeal, may impose reasonable conditions or limitations upon the establishment, location, construction, maintenance, or operation of the ~~Regulated~~ Controlled Use as may in its judgment be necessary for the protection of the public interest, health, safety, welfare and environment, and to secure compliance with the approval criteria of Sec. 61-3-281 of this Code and in accordance with Sec. 61-3-282 of this Code.

(c) To ensure compliance with this zoning ordinance and any conditions imposed under the ordinance, the Buildings, ~~and~~ Safety Engineering and Environmental Department or the Board of Zoning Appeals, as applicable, may require a performance guarantee, as provided for in ARTICLE XIV, DIVISION 8 of this Chapter, to ensure faithful completion of improvements associated with the project. (See definition of "improvements" in ARTICLE XVI, DIVISION 2, Subdivision J.)

(d) *Modifications.* A request for changes in conditions of approval of a ~~Regulated~~ Controlled Use, or a change to development plans that would affect a condition of approval, shall be processed in the same manner as the original application.

(Ord. No. 11-05, §1, 5-28-05)

Sec. 61-3-326. Lapse of approval.

(a) In any case where a permit for Controlled Use has not been obtained within six (6) months after the granting of said use, the permit approval shall be null and void without further action by the Buildings, ~~and~~ Safety Engineering and Environmental Department or the Board of Zoning Appeals.

(b) However, except in cases involving the legalization of an already established ~~Regulated~~ Controlled Use, the Buildings, ~~and~~ Safety Engineering and Environmental Department, or, where applicable, the Board of Zoning Appeals, may extend, without further public hearing, said six (6) month deadline for no more than twelve (12) months beyond the expiration date of the original six (6) months. Where this extension expires, no additional extension shall be authorized, unless a new application has been filed and a further public hearing has been held.

(Ord. No. 11-05, §1, 5-28-05)

DIVISION 12. MEDICAL MARIHUANA CAREGIVER CENTERS

Sec. 61-3-351. Purpose; in general.

(a) The purpose of this Division is to establish standards and procedures for the review and approval of the City of Detroit in permitting the land use category of medical marihuana

caregiver centers and to prevent an over concentration of like uses to allow for the diversification of commercial and retail offerings along major and secondary corridors in order to:

(1) Serve and protect the health, safety and welfare of the general public through reasonable limitations on land use as it relates to traffic, noise, light, air and water quality, neighborhood and patient safety, security, and other health and safety concerns;

(2) Regulate land used in the operation of activities authorized by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, *et seq.*;

(3) Establish land use restrictions that are fair and equitable for those interested in establishing medical marihuana caregiver centers while protecting adjacent properties from potential adverse effects;

(4) Provide reasonable regulation of land use pursuant to the city's general police power granted to cities by the Michigan Constitution of 1963 and the Home Rule City Act, MCL 117.1 *et seq.*, as amended and the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*, as amended;

(b) Nothing in this division, or in any companion regulatory provisions adopted in any other section of this Code is intended to prohibit, nor shall it be construed as prohibiting access to health care or medical marihuana by registered medical marihuana patients;

(c) Nothing in this division, or in any companion regulatory provisions adopted in any other provision of this Code, is intended to grant, nor shall it be construed as granting immunity from criminal prosecution for:

(1) Cultivation, sale, consumption, use, distribution, manufacture or possession of marihuana in any form not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, *et seq.*; or

(2) Any criminal prosecution under federal laws including seizure of property under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 *et seq.*

Sec. 61-3-352. Medical Marihuana Caregiver Centers subject to this division.

This Division applies to all medical marihuana caregiver centers as defined in Sec. 61-16-132 of this Code.

Sec. 61-3-353. Definitions; meaning of terms.

Cultivation or *cultivate* means (i) all phases of growth of marihuana from seed to harvest; or (ii) preparing, packaging or repackaging, labeling, or relabeling of any form of marihuana.

Drug-free zone, as established in Sec. 38-11-42 of this Code and as defined for this Chapter, means an area that is within one thousand (1,000) radial feet of the zoning lot of a(n):

1. arcade, as defined in Sec. 61-16-33 of this Code;
2. child care center, as defined in Sec. 61-16-52 of this Code;
3. educational institution, as defined in Sec. 61-16-71 of this Code ;
4. library, as defined in Sec. 61-16-123 of this Code;
5. outdoor recreation facility, as defined in Sec. 61-16-144 of this Code and identified in the City of Detroit Recreation Master Plan;
6. school, as defined in Sec. 61-16-171 of this Code;
7. youth activity center as defined in Sec. 61-16-212 of this Code;
8. public housing as defined in 42 USC 1437a(b)(1).

Medical marihuana means any marihuana intended for medical use that meets all requirements for medical marihuana contained in this Chapter, the Michigan Medical Marihuana Act, and any other applicable law. This shall not include butane hash oil or marihuana in any form inconsistent with the definition of usable marihuana under the Act.

1 *Medical marihuana caregiver center* means a medical marihuana business operated by a registered
2 primary caregiver that distributes medical marihuana, in a manner authorized by the Act, to
3 registered qualifying patients as defined by the Act, or performs other activities pertaining to medical
4 marihuana authorized by the Act.
5 *Michigan Medical Marihuana Act* or *"the Act"* means Initiated Law 1 of 2008, MCL 333.26421, *et*
6 *seq.*

7 **Sec. 61-3-354. Conditional Uses; Procedures; Waivers; Public Nuisance.**

8 (a) Medical marihuana caregiver centers are permitted on a conditional basis in the B2, B4, M1,
9 M2, M3, and M4 zoning districts, subject to the provisions of this division, the conditional
10 land use requirements of this Article, and the use regulations of Sec. 61-12-343 of this Code.

11 (b) The Buildings, Safety Engineering, and Environmental Department shall not approve any
12 request under this Chapter for a medical marihuana caregiver center:

13 (1) where located in a drug-free zone, as defined in Sec. 61-3-353 of this Code, or where
14 located within a Gateway Radial Thoroughfare overlay area or Traditional
15 Main Street overlay area (as provided in Article XI, Division 14 of this Chapter); and

16 (2) where located on a zoning lot in a B2, B4, M1, M2, M3, or M4 zoning district less than:

17 (A) One thousand (1,000) radial feet from any zoning lot occupied by any religious
18 institution identified as exempt by the City Assessor; and

19 (B) One thousand (1,000) radial feet from any zoning lot occupied by another
20 medical marihuana caregiver center; except that on land zoned M1, M2, M3, or

M4 farther than one hundred-fifty (150) feet from land zoned residential or residential PD, the spacing requirement between medical marihuana caregiver centers shall not apply;

(C) One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade).

(c) The applicant shall submit such documentation as requested by the Buildings, Safety Engineering and Environmental Department in order for the department to determine consistency or non-consistency with the locational specifications of subsection (b) of this section. Determination of whether the permit application is complete shall be made in accordance with Sec. 61-3-5 of this Code.

(d) The locational specifications related to drug-free zones of subsection (b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed.

(e) The locational specifications of subsection (b)(2) of this section may be modified by the Buildings, Safety Engineering and Environmental Department, subject to the approval criteria of Sec. 61-4-81 of this Code to be considered at the conditional land use hearing, provided the modification does not diminish the spacing requirement by more than ten percent (10%). Requests for modification of the locational specifications of subsection (b)(2) of this section that are denied by the Buildings, Safety Engineering and Environmental Department or that will diminish the spacing requirement by more than ten percent (10%)

may be approved by the Board of Zoning Appeals in accordance with Secs. 61-4-89 and 61-3-219 of this Code.

(f) The Buildings, Safety Engineering and Environmental Department shall schedule the conditional land use hearing required by this Article within thirty (30) days of site plan approval.

(g) Medical marihuana caregiver centers are not permitted as accessory uses, nor may they include accessory uses.

(h) Any premises, building, or other structure in which a medical marihuana caregiver center is regularly operated or maintained in violation of the standards included and incorporated in this Code shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the City of Detroit in a court of competent jurisdiction, in addition to the penalties authorized by this Chapter. Any premises, building, or other structure declared by the court to be a public nuisance shall be closed and the property owner assessed the costs of abatement. Each day that a violation is permitted to exist or occur on the premises shall constitute a separate occurrence or maintenance of the violation.

ARTICLE IX. BUSINESS ZONING DISTRICTS

DIVISION 3. B2 LOCAL BUSINESS AND RESIDENTIAL DISTRICT

Sec. 61-9-44. Conditional other uses.

(1) Antennas as provided for in ARTICLE XII, DIVISION 3, Subdivision G of this Chapter.

(2) Medical marihuana caregiver centers as provided for in ARTICLE III, DIVISION 12 of this Chapter, except such use shall not be permitted in any Traditional Main Street overlay area.

~~(2)~~ (3) Signs as provided for in ARTICLE VI of this Chapter.

(Ord. No. 11-05, §1, 5-28-05)

DIVISION 5. B4 GENERAL BUSINESS DISTRICT

Sec. 61-9-84. Conditional other uses.

(1) Antennas as provided for in ARTICLE XII, DIVISION 3, Subdivision G. of this Chapter.

(2) Aquaculture as provided for in ARTICLE XII, DIVISION 3, Subdivision H of this Chapter

(3) Aquaponics as provided for in ARTICLE XII, DIVISION 3, Subdivision H of this Chapter

(3) Hydroponics as provided for in ARTICLE VI of this Chapter

(4) Medical marihuana caregiver center, as provided for in ARTICLE III, DIVISION 12 of this Chapter, except such use shall not be permitted in any Gateway Radial Thoroughfare or Traditional Main Street overlay area.

~~(4)~~ (5) Signs as provided for in ARTICLE VI of this Chapter.

~~(5)~~ (6) Telecommunications building, private

(Ord. No. 11-05, §1, 5-28-05; Ord. No. 10-13, §1, 04-16-13)

ARTICLE X. INDUSTRIAL ZONING DISTRICTS

DIVISION 2. M1 LIMITED INDUSTRIAL DISTRICT

Sec. 61-10-24. Conditional other uses.

(1) Aircraft landing areas for winged aircraft

(2) Ferry terminal

(3) Signs as provided for in ARTICLE VI of this Chapter.

(4) Urban farm as provided for in ARTICLE XII, DIVISION 3, Subdivision H of this Chapter

(5) Urban garden as provided for in ARTICLE XII, DIVISION 3, Subdivision H of this Chapter

(6) Medical marihuana caregiver centers as provided for in ARTICLE III, DIVISION 12 of this Chapter

(Ord. No. 11-05, §1, 5-28-05; Ord. No. 10-13, §1, 04-16-13)

DIVISION 3. M2 RESTRICTED INDUSTRIAL DISTRICT

Sec. 61-10-44. Conditional other uses.

(1) Ferry terminal

(2) Heliports

(3) Signs as provided for in ARTICLE VI of this Chapter.

(4) Urban farm as provided for in ARTICLE XII, DIVISION 3, Subdivision H of this Chapter

(5) Urban garden as provided for in ARTICLE XII, DIVISION 3, Subdivision H of this Chapter

(6) Medical marihuana caregiver centers as provided for in ARTICLE III, DIVISION 12 of this Chapter

(Ord. No. 11-05, §1, 5-28-05; Ord. No. 10-13, §1, 04-16-13)

DIVISION 4. M3 GENERAL INDUSTRIAL DISTRICT

Sec. 61-10-64. Conditional other uses.

(1) Boat or ship yard: construction, repair, maintenance, dry dock

(2) Docks, waterway shipping/freighters

(3) Ferry terminal

(4) Heliports

(5) Signs as provided for in Article VI of this Chapter.

(6) Urban farm as provided for in ARTICLE XII, DIVISION 3, Subdivision H of this Chapter

(7) Urban garden as provided for in ARTICLE XII, DIVISION 3, Subdivision H of this Chapter

(8) Medical marihuana caregiver centers as provided for in ARTICLE III, DIVISION 12 of this Chapter

(Ord. No. 11-05, §1, 5-28-05; Ord. No. 10-13, §1, 04-16-13)

DIVISION 5. M4 INTENSIVE INDUSTRIAL DISTRICT

Sec. 61-10-84. Conditional other uses.

(1) Ferry terminal

(2) Heliports

(3) Signs as provided for in Article VI of this Chapter

(4) Urban farm as provided for in Article XII, Division 3, Subdivision H of this Chapter

(5) Urban garden as provided for in Article XII, Division 3, Subdivision H of this Chapter

(6) Medical marihuana caregiver centers as provided for in ARTICLE III, DIVISION 12 of this Chapter

(Ord. No. 11-05, §1, 5-28-05; Ord. No. 10-13, §1, 04-16-13)

ARTICLE XI. SPECIAL PURPOSE ZONING DISTRICTS AND OVERLAY AREAS

DIVISION 14. OVERLAY AREAS

Subdivision A. Gateway Radial Thoroughfare Overlay Areas.

Sec. 61-11-304. Prohibitions and limitations.

(a) The following uses are prohibited on any zoning lot zoned B4 abutting any street designated as a Gateway Radial Thoroughfare:

(7) Confection manufacture;

(8) Dental products, surgical, or optical goods manufacture;

(9) Emergency shelter;

(10) Go-cart track;

(11) Ice manufacture;

(12) Jewelry manufacture;

(13) Lithographing;

(14) Medical marihuana caregiver center, as provided for in Article III, Division 12 of this Chapter;

~~(8)~~ (9) Motor vehicle washing and steam cleaning;

~~(9)~~ (10) Motor vehicle services, major;

~~(10)~~ (11) Motor vehicles, used, salesroom or sales lots;

~~(11)~~ (12) Motor vehicles, used, storage lot accessory to a salesroom or sales lot for used motor vehicles;

~~(12)~~ (13) Pawnshop;

~~(13)~~ (14) Plasma donation center;

~~(14)~~ (15) Pre-release adjustment center;

~~(15)~~ (16) Radio, television, or household appliance repair shop;

~~(16)~~ (17) Rebound tumbling center;

~~(17)~~ (18) Restaurant, carry-out or fast-food with drive-up or drive-through facilities or where not located in a multi-story building having a mixed-use or multi-tenant development; prohibition limited to Woodward Avenue only;

~~(18)~~ (19) Secondhand store and secondhand jewelry store;

~~(19)~~ (20) Signs, advertising;

~~(20)~~ (21) Substance abuse service facility;

~~(21)~~ (22) Tattoo and/or piercing parlor;

~~(22)~~ (23) Taxicab dispatch and/or storage facility;

~~(23)~~ (24) Toiletries or cosmetic manufacturing;

~~(24)~~ (25) Tool, die, and gauge manufacturing;

~~(25)~~ (26) Trade services, general;

~~(26)~~ (27) Trailer coaches or boats, sale or rental, open air display;

~~(27)~~ (28) Trailers or cement mixers, pneumatic-tired, sales, rental or service;

~~(28)~~ (29) Vending machine commissary;

~~(29)~~ (30) Wearing apparel manufacturing;

~~(30)~~ (31) Wholesaling, warehousing, storage buildings, or public storage houses, except on Gratiot Avenue.

(b) Accessory parking lots or parking areas on zoning lots abutting a designated Gateway Radial Thoroughfare that are not farther than the maximum distance specified in ARTICLE XIV, DIVISION 1, Subdivision B of this Chapter shall be permitted by right subject to ARTICLE XIV, DIVISION 1, Subdivision E, ARTICLE XIV, DIVISION 1, Subdivision G, and ARTICLE XIV, DIVISION 2, Subdivision C of this Chapter.

(c) Commercial parking lots or areas and accessory parking lots or areas on zoning lots abutting a designated Gateway Radial Thoroughfare that are farther than the maximum distance specified in ARTICLE XIV, DIVISION 1, Subdivision B of this Chapter, shall be reviewed as Conditional Uses subject to ARTICLE XIV, DIVISION 1, Subdivision E, ARTICLE XIV, DIVISION 1, Subdivision G, and ARTICLE XIV, DIVISION 2, Subdivision C of this Chapter.

(Ord. No. 11-05, §1, 5-28-05)

Subdivision B. Traditional Main Street Overlay Areas.

Sec. 61-11-316. Prohibited use.

Medical marihuana caregiver centers are prohibited within any Traditional Main Street Overlay Area.

Secs. ~~61-11-316~~ 61-11-317 – 61-11-320. Reserved.

ARTICLE XII. USE REGULATIONS

DIVISION 2. USE TABLE

1

Use Category	Specific Land Use	Residential						Business						Industrial					Special and Overlay											Standards General (Art. XII, Div. 2) Specific (Art. XII, Div. 3)
		R1	R2	R3	R4	R5	R6	B1	B2	B3	B4	B5	B6	M1	M2	M3	M4	M5	PD	P1	PC	PCA	TM	PR	W1	SD1	SD2	SD3	SD4	SD5	
Subdivision F. Other Uses.																															
Sec. 61-12-80. Medical marihuana caregiver centers	Medical marihuana caregiver center								C		C			C	C	C	C														Article III, Division 12; Sec. 61-12-92; Sec. 61-12-95; Sec. 61-12-96; Sec. 61-12-343

1

DIVISION 2. GENERAL USE STANDARDS

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved) or Zoning District	Comment
Sec. 61-12-92. Other uses—Spacing. (Ord. No. 11-05, §1, 5-28-05; Ord. No. 01-10, §1, 04-01-10)			
Adult uses/sexually oriented business	1000 radial feet	- Zoning lot zoned R1, R2, R3, R4, R5, R6, residential PD: 1000 feet; - Residentially developed zoning lot in SD1, SD2, and SD4 zoning districts: 1000 feet; - Elementary, middle, or high school: 1000 feet; - Park, playlot, playfield, playground, recreation center, youth activity center: 1000 feet; - Religious institution identified as exempt by the City Assessor: 1000 feet -Regulated Use: 1000 feet	Sec. 61-3-344
Sign, advertising	1000 feet, measured linearly	School site: 500 linear feet; public playground or public park: 500 linear feet; historic district: 500 linear feet	Sec. 61-6-52; Sec. 61-6-57; Sec. 61-12-95; Sec. 61-12-96
Medical marihuana caregiver center	1000 radial feet (except in M1, M2, M3 or M4 where 150 feet from land zoned R1, R2, R3, R4, R5, R6 or residential PD)	- Drug-free zone: 1000 radial feet; - Religious institution identified as exempt by the City Assessor: 1000 radial feet; Controlled Uses (other than arcades): 1000 radial feet.	Sec. 61-3-354; Sec. 61-12-95; Sec. 61-12-96; Sec. 61-12-343; Sec. 61-12-443

2

3 **Sec. 61-12-95. Waiver of general spacing requirements.**

Except for Controlled Uses, and medical marihuana caregiver centers, only the Board of Zoning Appeals may adjust the spacing requirements between land uses, as provided for in the tables in Sec. 61-12-89, Sec. 61-12-90, Sec. 61-12-91, Sec. 61-12-92, and Sec. 61-12-94 of this Code, as a "locational variance" in accordance with the criteria specified in Sec. 61-4-81 of this Code and where the proposed use satisfies all the following conditions:

(1) All other applicable regulations within this zoning ordinance or this Code will be observed;

(2) The proposed use will not be contrary to the public interest or injurious to nearby properties in the proposed location, and the spirit and intent of the purpose of the spacing regulations will still be observed;

(3) The proposed use will not aggravate or promote a deleterious effect upon adjacent areas through causing or encouraging blight, and will not discourage investment in the adjacent areas or cause a disruption in neighborhood development; and

(4) The establishment of the use in the area will not be contrary to any program of neighborhood conservation or interfere with any program of urban renewal.

The spacing and locational requirements for adult uses, as specified in Sec. 61-3-344 and Sec. 61-12-92 of this Code, may not be waived. The "drug-free zone" spacing requirement for medical marihuana caregiver centers, as specified in Sec. 61-3-354 and Sec. 61-12-92 of this Code, may not be waived; the spacing requirement between medical marihuana caregiver centers and the "religious institution" and "Controlled Use" spacing requirements for medical marihuana caregiver centers may be modified by the Buildings, Safety Engineering and Environmental Department or the Board of Zoning Appeals as provided in Sec. 61-3-354(e) of this Code.

(Ord. No. 11-05, §1, 5-28-05; Ord. No. 01-10, §1, 04-01-10)

Sec. 61-12-96. Waiver of spacing from schools.

(a) The prohibition that relates to the location of a use, referenced in the tables in Sec. 61-12-89 through Sec. 61-12-94 of this Code, within five hundred (500) radial feet of a school site may be waived by:

(1) The Buildings, ~~and~~ Safety Engineering and Environmental Department, provided, that the proposed use is at least four hundred-fifty (450) radial feet from the school site; or

(2) The Board of Zoning Appeals where the proposed use is less than four hundred fifty (450) radial feet from the school site.

(b) The waiver of the prohibition is subject to a finding based on evidence presented at a public hearing that the establishment of the use will not impede the normal and orderly development, operation, and improvement of the school.

(c) Such waiver shall be documented by a statement of facts upon which such determination was made and shall indicate that such use would not be injurious or harmful to the school.

(d) The prohibition that relates to the location of a medical marihuana caregiver center within one thousand (1,000) feet of a school (among other uses specified in a "drug-free zone," as defined in Sec. 61-3-353 of this Code and referenced in the table of Sec. 61-12-92 of this Code) shall not be waived by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals.

(Ord. No. 11-05, §1, 5-28-05)

DIVISION 3. SPECIFIC USE STANDARDS

Subdivision I. Other Uses—Miscellaneous

Sec. 61-12-343. Medical marihuana caregiver centers

Medical marihuana caregiver centers are subject to the following:

(1) Prior to the issuance of any permit to operate a medical marihuana caregiver center, and no later than December 31st of each subsequent year, the applicant or operator shall submit to the Buildings, Safety Engineering and Environmental Department a photocopy of the operator's valid and current registered primary caregiver's license issued by the State of Michigan in accordance with the General Rules of the Michigan Department of Community Health and the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26421 *et seq*. Proof of such licensing shall be required prior to the opening, and as a condition for the continued operation, of any medical marihuana caregiver center.

(2) Medical marihuana caregiver centers shall be licensed as such by the Business License Center in accordance with Chapter 24 of this Code and shall be required prior to the opening for business, and as a condition for the continued operation, of any medical marihuana caregiver center.

(3) All signage identifying a building as a medical marihuana caregiver center must be removed within thirty (30) days of ceasing to do business or physical abandonment of the premises of the medical marijuana caregiver center.

(4) A medical marihuana caregiver center shall not allow loitering inside or outside its premises, consumption of medical marihuana in the premises, and shall take care to

prevent the transmission of any odors from the medical marihuana caregiver center to the exterior of the licensed premises.

(5) The provisions of Article III, Division 12 of this Chapter.

Secs. 61-12-3434–61-12-350. Reserved.

DIVISION 5. ACCESSORY USES AND STRUCTURES

Subdivision A. In General.

Sec. 61-12-374. Accessory uses not permitted.

Medical marihuana caregiver centers are not permitted as accessory uses, nor may they include accessory uses.

Secs. 61-12-3745–61-12-380. Reserved.

Subdivision B. Home Occupations.

Sec. 61-12-381. Where allowed.

Home occupations that comply with the regulations of this subdivision are allowed within a dwelling unit, without need for a permit or registration unless otherwise specified in this subdivision, where such home occupation is incidental and subordinate to use of the dwelling for residential purposes.

(Ord. No. 11-05, §1, 5-28-05)

Sec. 61-12-394. Cultivation of Medical Marihuana

1 Cultivation of Medical Marihuana shall be permitted as a home occupation where the
2 resident operating the business registers the home occupation with the Buildings, Safety Engineering
3 and Environmental Department and:
4 (1) The resident operating the business in the dwelling unit is a registered primary
5 caregiver, in compliance with the General Rules of the Michigan Department of
6 Community Health and the Michigan Medical Marihuana Act, P.A. 2008, Initiated
7 Law, MCL 333.26421 *et seq.*;
8 (2) The portion of the dwelling unit used for cultivation shall be inspected upon
9 registration and annually thereafter for compliance with this Chapter, and applicable
10 fire, building and property maintenance codes;
11 (3) All necessary building, electrical, plumbing and mechanical permits shall be obtained
12 for any portion of the dwelling unit where electrical wiring, lighting, ventilation
13 systems and/or watering devices that support the cultivation, growing or harvesting
14 of marihuana are to be installed;
15 (4) If a room with windows is utilized as a growing location, any lighting methods used
16 between the hours of 11pm to 7am shall employ shielding methods, without
17 alteration to the exterior of the residence, to prevent ambient light spillage that may
18 create a distraction for adjacent properties;
19 (5) That portion of the dwelling unit where energy usage and heat exceed typical
20 residential use, such as a grow room, and the storage of any chemicals such as
21 herbicides, pesticides, and fertilizers shall be subject to inspection and approval upon
22 registration and annually thereafter by the Detroit Fire Department to ensure
23 compliance with the Michigan Fire Prevention Code, being MCL Section 29.1 *et seq.*;

(6) Care shall be taken to prevent the transmission of odors from the dwelling unit to neighboring properties when medical marihuana is being cultivated:

(7) Additional conditions may be imposed by the Buildings, Safety Engineering and Environmental Department on a case by case basis when necessary to protect the health, safety and general welfare of the occupants of the dwelling unit or the general public.

DIVISION 6. TEMPORARY USES AND STRUCTURES

Subdivision B. Specific Temporary Uses Allowed

Sec. 61-12-443. Prohibited temporary uses.

The following temporary uses are prohibited:

(1) Sales of fireworks as defined in Sec. 61-16-82 of this Code;

(2) Sales of firearms; ~~and~~

(3) Sales of any materials characterized by an emphasis on specified anatomical areas or specified sexual activities as defined in Sec. 61-16-174 of this Code~~.~~; and

(4) Medical marihuana caregiver centers.

(Ord. No. 11-05, §1, 5-28-05)

ARTICLE XIV. DEVELOPMENT STANDARDS

1 **SUBDIVISION B. OFF-STREET PARKING SCHEDULE "A"**

Sec. 61-14-56. Other uses. These other specified uses shall provide off-street parking as follows: (Ord. No. 11-05, §1, 5-28-05)			
Sec. 61-14-58.5 Medical Marihuana Caregiver Center	Medical Marihuana Caregiver Center	1 per 200 square feet	same lot

2 **ARTICLE XVI. DEFINITIONS AND RULES OF CONSTRUCTION**

3 **DIVISION 2. WORDS AND TERMS DEFINED**

Subdivision D. Letter "C"	
Sec. 61-16-54. Words and terms (Ct-Cz) (Ord. No. 11-05, §1, 5-28-05; Ord. No. 44-06, §1, 12-21-06)	
Cultural Center (Ord. No. 44-06, §1, 12-21-06)	The portion of the City of Detroit within the area bounded by the center lines of the Edsel Ford Freeway, Brush Street, Forest Avenue, and the John C. Lodge Freeway
Cul-de-sac	A street ending in a turn-around, designed, and intended as a permanent or temporary terminus.
Cultivate or cultivation (marihuana)	(i) all phases of growth of marihuana from seed to harvest; or (ii) preparing, packaging or repackaging, labeling, or relabeling of any form of marihuana.
Customer service center	A facility, other than a retail store, operated by a public or private utility, at which customers of the utility may make bill payments, obtain product or service information, or conduct similar business.
Subdivision L. Letter "M"	
Sec. 61-16-131. Words and terms (Ma-Mg). (Ord. No. 11-05, §1, 5-28-05; Ord. No. 01-10, §1, 04-01-10; Ord. No. 13-11, §1, 8-23-11)	

Manufactured Housing Unit	A transportable, factory-built structure that is manufactured in accordance with the federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401) and that is designed to be used as a single dwelling unit.
Manufacturing and Production (Use Category)	Uses involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. Examples include the following uses: •Very high-impact manufacturing or processing •High-impact manufacturing or processing •High/medium-impact manufacturing or processing •Low/medium-impact manufacturing or processing •Low-impact manufacturing or processing Manufacturing of goods to be sold primarily on-site and to the general public are classified as Retail Sales and Service. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.
Manufacturing or Processing	See Manufacturing and Production (Use Category).
Marina	Marina means a facility that offers service to the public or members of the marina for docking, loading, or other servicing or recreational watercraft. Accessory uses include boat storage and eating and retail facilities for owners, crews, and guests.
Massage Therapy Clinic	An establishment (excluding "adult physical culture establishments") where a licensed or certified massage therapist provides massage in compliance with applicable provisions of Chapter 32 of this Code.
Master Deed	The condominium document recording the condominium project as approved by the City, to which is attached as exhibits and incorporated by reference the approved by-laws for the project and the approved condominium subdivision plan for the project.
Master Plan	The official "Master Plan of Policies" of the City of Detroit, as referenced in the Journal of City Council, August 5, 1992, Pages 1784-1787, as amended. The Master Plan of Policies specifies three levels of roadway under the "transportation" designation of the City of Detroit future general land use map: freeways, major thoroughfares, and secondary thoroughfares.
Measurement	See "Linear Measurement" and "Radial Measurement."
Medical Marihuana	Marihuana intended for medical use which meets all requirements for medical marihuana contained in this Code, the Michigan Medical Marihuana Act, and any other applicable law
Medical Marihuana Caregiver Center	A medical marihuana business operated by a registered primary caregiver that distributes medical marihuana, in a manner authorized by the Act, to registered qualifying patients as defined by the Act, or performs other activities pertaining to medical marihuana authorized by the Act .

Mercado	Open air sales of new retail goods, produce, handcrafts, and the like. For zoning purposes a Mercado shall be considered the same as a store of a generally recognized retail nature whose primary business is the selling of new merchandise.

Sec. 61-16-132. Words and terms (Mh-Mm).

(Ord. No. 11-05, §1, 5-28-05; (Ord. No. 13-11, §1, 8-23-11; Ord. No. 23-14, §1, 07-24-14)

Michigan Planning Enabling Act (Ord. No. 13-11, §1, 8-23-11)	The Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, MCL 125.3801 *et seq.*
Michigan Zoning Enabling Act (Ord. No. 13-11, §1, 8-23-11)	The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, MCL 125.3101 *et seq.*
Michigan Medical Marihuana Act	Initiated Law 1 of 2008, MCL 333.26421, et seq.
Micro Brewery	A facility licensed as such by the Michigan Liquor Control Commission that annually produces in total less than twenty thousand (20,000) barrels of beer and that may include therein the licensed brewery premises.
Microwave-receiving Antenna	An antenna, usually parabolic or quasi-parabolic in shape, the purpose of which is to receive signals transmitted from terrestrial transmitters.
Mixed-use building (Ord. No. 23-14, §1, 07-24-14)	A mixed-use building includes at least one use from at least two of the following general land use headings in the same building: Residential Uses as specified in ARTICLE XII, DIVISION 1, Subdivision B; Public, Civic and Institutional Uses as specified in ARTICLE XII, DIVISION 1, Subdivision C; Retail, Service and Commercial uses as specified in ARTICLE XII, DIVISION 1, Subdivision D; Manufacturing and Industrial Uses as specified in ARTICLE XII, DIVISION 1, Subdivision E. A building shall also be deemed to be mixed-use where it includes both: (a) An "Office, business or professional" and (b) Any other retail use(s) specified in Sec. 61-12-43 [Food and Beverage Service], Sec. 61-12-47 [Recreation/entertainment, indoor], Sec. 61-12-50 [Retail sales and service; sales-oriented] or Sec. 61-12-51 [Retails sales and service; service-oriented].

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Subdivision N. Letter "P"	
Sec. 61-16-153. Words and terms (Pn-Ps). (Ord. No. 11-05, §1, 5-28-05; Ord. No. 24-08, §1, 11-01-08; Ord. No. 13-11, §1, 8-23-11; Ord. No. 04-12, §1, 3-30-12)	
Police Department Authorized Abandoned Vehicle Yards (Ord. No. 13-11, §1, 8-23-11; Ord. No. 04-12, §1, 3-30-12)	[*See:* Towing service storage yard]
Porch	A covered or uncovered entrance to a building or a roofed structure projecting from the exterior wall or walls of a principal structure and supported by piers, posts or columns and commonly open to weather.
Porch, Enclosed	An enclosed porch shall be a porch enclosed with screen panels or storm windows; opaque materials used in such enclosed shall be limited to a maximum height of 42 inches above the floor of the porch.
Porch, Unenclosed	An unenclosed porch shall be a porch that is not closed in any way by glass, opaque panel, or any other material, and has no enclosing features higher than 42 inches above the floor of the porch except the roof, roof supports, and railing.
Pre-release Adjustment Center	An establishment that provides shelter, supervisory and social services to convicts in a pre-release parole preparation program, as authorized by the Michigan Corrections Commission under authority of P.A. 323 of 1953, as amended, or by the Federal Bureau of Prisons under authority of P.L. 91:492, as amended.
Primary Caregiver	An individual registered with the State of Michigan in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, Initiated Law I of 2008, MCL 333.26421, et seq.
Principal Building	The building occupied or designed for the principal use.
Principal Use	The main use to which a premises is devoted.
Private Club	An association, whether incorporated or unincorporated, organized for a common purpose to pursue common goals, interests or activities, not including associations organized for a commercial or business purpose; said private club is characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws. The facilities or clubhouse owned or used by such organizations may be referred to in this Chapter as a "club".

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3 **Section 2.** All ordinances or parts of ordinances in conflict with this ordinance are repealed.

4 **Section 3.** This ordinance is declared necessary for the preservation of the public peace,

5 health, safety, and welfare of the people of the City of Detroit.

Section 4. Section 4. This ordinance shall become effective on March 1, 2015.

2016.

Approved as to form:

Melvin B. Hollowell
Corporation Counsel