

Note: Generalized changes to the September 17 draft are shown with additions underlined, and deletions in strikeout. Some items have been reordered from the previous draft.

AN ORDINANCE TO ADD A NEW SECTION 5:52 TO CHAPTER 55 (ZONING) OF TITLE IX OF THE CODE OF THE CITY OF ANN ARBOR

5:50.1. Regulations Concerning Medical Marijuana

(1) Intent.

(a) It is the intent of this section to provide appropriate locations for the cultivation and transfer of medical marijuana allowed by the Michigan Medical Marihuana Act, MCL 333.26421 et seq. This is a unique land use with ramifications not addressed by more traditional zoning district and home occupation regulations.

(b) Medical marijuana as a home occupation should not compromise the health, safety, or welfare of nearby residents.

(2) Definitions. The following words and phrases shall have the following definitions when used in this section.

a) Caregiver. A person who has agreed to assist with a patient's medical use of marijuana and has been issued a registry identification card and who otherwise meets the definition of a primary caregiver under the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

b) Medical marijuana. Marijuana (or marihuana) grown, used, or transferred for medical use as defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

c) Medical marijuana cultivation. Growing marijuana as allowed by the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

d) Medical marijuana cultivation facility. ~~Three or more caregivers growing marijuana on a parcel, or eleven or more patients cultivating medical marijuana on a parcel on which they do not reside.~~ A single facility where more than 72 marijuana plants are being grown.

e) Medical marijuana dispensary. ~~Three~~ One or more caregivers operating ~~from a parcel with the intent to transfer medical marijuana to a patient~~ between caregivers and/or patients from a location other than a medical marijuana home occupation.

- f) Medical marijuana home occupation. An accessory use of a nonresidential nature involving medical marijuana which is performed within a single-family dwelling or within an accessory building to that single-family dwelling, and conducted by ~~one or two~~ a caregiver or caregivers residing in the dwelling.
 - g) Patient. A person who has been diagnosed by a physician as having a debilitating medical condition and has been issued a registry identification card and who otherwise meets the definition of qualifying patient under the Michigan Medical Marijuana Act, MCL 333.26421 *et seq.*
 - h) Registry identification card. A document issued by the Michigan Department of Community Health that identifies a person as a registered qualifying patient or registered primary caregiver.
- (3) Locations of medical marijuana dispensaries and cultivation facilities. A medical marijuana dispensary or cultivation facility may be located in the City only in accordance with the following restrictions:
- ~~a) No medical marijuana dispensary or cultivation facility shall be located on a parcel within 200 feet of a district which, pursuant to this chapter, has been classified R1A, R1B, R1C, R1D, R2A, R2B, R3, R4A, R4B, R4C, R4C/D, R4D, or R6, or PUD containing solely residential uses.~~
 - a) Medical marijuana dispensaries shall only be located in a district classified pursuant to this chapter as ~~D1, D2, C2B, C3, M1 or M2~~ D, C, or M.
 - b) Medical marijuana cultivation facilities shall only be located in a district classified pursuant to this chapter as ~~C2B, C3, M1, M2, RE, or ORL~~ C, M, RE, or ORL.
 - c) In ~~C2B and C3_C~~ districts, buildings used for dispensaries or cultivation facilities shall meet the minimum parking requirements of Chapter 59 for retail uses, with no exceptions for existing nonconforming parking
 - ~~d) No medical marijuana dispensary or cultivation facility shall be established on a parcel within 500 feet of another parcel on which either a medical marijuana dispensary or cultivation facility is located.~~
 - d) No medical marijuana dispensary or cultivation facility shall be located within 1000 feet of a parcel on which a public or private elementary or secondary school is located.
- (4) Medical marijuana dispensary and cultivation facility regulations.

- a) No person shall reside in or permit any person to reside in a medical marijuana dispensary or cultivation facility, except as allowed in the M1 and M2 zoning districts.
- ~~b) The operators of a medical marijuana dispensary or cultivation facility must be registered caregivers.~~
- b) No one under the age of 18 shall be allowed to enter a medical marijuana dispensary or cultivation facility unless accompanied by a parent or guardian.
- c) No smoking, inhalation, or consumption of medical marijuana shall take place on the premises.
- d) No person shall lease or sub-lease any property for the purpose of using said property for a medical marijuana dispensary or cultivation facility without the prior express written permission of the owner of the property for such use.
- e) An annual zoning compliance permit signed by the owner shall be required, and must be renewed prior to the anniversary date of the issuance of the original permit.
- f) In M1 and M2 districts, retail sales of products customarily incidental to the principal use shall be allowed provided that the total amount of internal floor area of the structure devoted to sales and display of such products does not exceed 10 percent of the floor area of the total establishment.
- g) Drive-in medical marijuana dispensaries shall be prohibited.
- h) All activities of a medical marijuana dispensary or cultivation facility shall be conducted indoors.
- i) No equipment or process shall be used in any medical marijuana dispensary or cultivation facility which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
- j) Medical marijuana dispensaries and cultivation facilities shall comply with all other regulations of the zoning district in which the dispensary or cultivation facility is located, except when they are in conflict, in which case this section shall prevail.
- ~~k) No sales or transfers of drug paraphernalia are permitted at any medical marijuana dispensary, except to qualifying patients.~~

- k) Medical marijuana dispensaries and cultivation facilities shall be operated in compliance with the provisions of the Michigan Department of Community Health and the Michigan Medical Marijuana Act MCL 333.26421 *et seq.*
- (5) Medical marijuana home occupation regulations
- ~~a) Two registered caregivers per single family dwelling are each limited to providing medical marijuana to five patients other than themselves. Caregivers may not give, sell, or otherwise transfer medical marijuana to anyone other than the five patients that have designated them as their caregiver through the Michigan Department of Community Health.~~
- a) In a single family dwelling in any zoning district, no more than 72 medical marijuana plants shall be grown on the premises, regardless of the number of caregivers and/or patients residing in the dwelling, as a home occupation.
- b) The principal use of the dwelling unit shall be a dwelling and shall be in actual use as such.
- c) An annual zoning compliance permit signed by the owner shall be required, and must be renewed prior to the anniversary date of the issuance of the original permit.
- d) Total floor area devoted to medical marijuana as a home occupation in the principal or accessory building shall not exceed 25% of the gross floor area of the dwelling
- e) Outside appearance of premises shall have no visible evidence of the conduct of a home occupation.
- f) No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
- g) No article or service shall be sold or offered for sale on the premises except those which are produced by such home occupation on the premises.
- h) Medical marijuana as a home occupation shall not generate more than 5 10 business-related vehicle trips in any one day in the vicinity of the home occupation, and any need for parking generated by the conduct of such home occupation shall be provided off-street in accordance with the off-street parking requirements.
- ~~g) No transfer of medical marijuana to patients other than those residing on the parcel shall occur on the parcel.~~

- h) No equipment or process shall be used in such home occupation which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
 - i) Medical marijuana home occupations shall be operated in compliance with the provisions of the Michigan Department of Community Health and the Michigan Medical Marijuana Act, MCL 333.26421 *et seq.*
- (7) Medical marijuana in dwelling units other than single family dwellings.
- a) In a dwelling unit other than a single family dwelling in any zoning district, no more than 12 plants for each patient who resides in the dwelling unit shall be grown.
 - b) The principal use of the dwelling unit shall be a dwelling and shall be in actual use as such.
 - c) No transfer of medical marijuana to patients other than patients residing within the dwelling unit shall occur.
 - d) No equipment or process shall be used in cultivation which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
 - e) All aspects of medical marijuana cultivation shall comply at all times with the provisions of the Michigan Department of Community Health and the Michigan Medical Marijuana Act, MCL 333.26421 *et seq.*