

Introduced: 08-13-19
Public Hearing: 10-29-19
Adopted: 10-29-19
Effective: 11-14-19

ORDINANCE NO. 1469

AN ORDINANCE TO AMEND SECTION 50-7 OF ARTICLE I – GENERAL; TO ADD SECTION 50-94b TO DIVISION 3 – SPECIAL USE PERMITS OF ARTICLE II – ADMINISTRATION AND ENFORCEMENT; TO AMEND SECTION 50-154 OF ARTICLE III – GENERAL DISTRICT REGULATIONS; TO AMEND SECTION 50-612 OF DIVISION 5 – RESTRICTED OFFICE BUSINESS DISTRICT, B-4, SECTION 50-632 OF DIVISION 6 – COMMUNITY RETAIL SALES BUSINESS DISTRICT, B-5 AND SECTION 50-651 OF DIVISION 7 – MANUFACTURING DISTRICT, M-1 OF ARTICLE VI – BUSINESS OFFICE AND INDUSTRIAL DISTRICTS; TO RENAME DIVISION 7 – MEDICAL MARIHUANA PROVISIONING CENTER FACILITIES OVERLAY DISTRICTS – AND AMEND SECTIONS 50-801, 50-802 AND 50-803 OF ARTICLE VII – OTHER DISTRICTS; ALL OF WHICH ARE IN CHAPTER 50 – ZONING – OF THE CODE OF THE CITY OF EAST LANSING TO ALLOW FOR AND REGULATE MARIHUANA ESTABLISHMENTS.

THE CITY OF EAST LANSING ORDAINS:

Section 50-7 of Article I is hereby amended; Section 50-94b is hereby added to Division 3 of Article II; Section 50-154 of Article III is hereby amended; Section 50-612 of Division 5, Section 50-632 of Division 6 and Section 50-651 of Division 7 of Article VI are hereby amended; Division 7 of Article VII is hereby renamed and Sections 50-801, 50-802 and 50-803 of Article VII are hereby amended; all of which are provisions of Chapter 50 of the Code of the City of East Lansing which are to read as follows:

Sec. 50-7. - Definitions, G through M.

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

Garage, private, means a building or other structure designed for the housing of automobiles and having capacity for not more than four automobiles.

Garage, public, means any building or premises, other than a gasoline filling station, used for housing or care of more than four automobiles, or where any such automobiles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

Ground coverage means that part or percent of lot area included within the outside boundary lines of all buildings and structures located on the lot, including porches, decks, patios, breezeways, balconies, bay windows, paved drives and walks, and other area covered with impervious materials.

Habitable room means a room designed for living and/or sleeping, excluding bathrooms, kitchens, dining areas, closets, hallways, and service areas.

Home occupation means an accessory use of a dwelling for gainful employment on a recurring basis involving the manufacture, sale, or provision of goods, materials or services. Class A home occupations may involve the provision of personal service, such as typing, computing, sewing and tutoring; the provision of professional services such as medical and health care, legal, financial, accounting, engineering, architectural, real estate, insurance, counseling, and religious assistance; the creation and/or sale of goods, materials, or handicrafts, except for the sale of food or beverages to be consumed on the premises; and the repair of small appliances, bicycles, and similar products which are not powered by internal combustion engines. Class A home occupations shall be established and operated in compliance with the provisions of section 50-147(7). Also, for the purposes of this chapter, "child care organizations," as defined in section 50-5, shall be considered separate from home occupations.

Hotel means a multiple-family dwelling in which persons are lodged for hire as the more or less temporary abiding place, and in which as a rule the rooms are occupied singly and without any provision therein for cooking, and in which there are more than 25 sleeping rooms, and a public dining room with kitchen facilities for accommodation of at least 25 guests.

Household pet daycare means a premises containing up to six cats or dogs or a combination making a total of six where care and supervision are provided for periods of 12 hours or less per day with or without financial compensation. This does not include household pets as allowed under section 4-4 of this Code.

Kennel means any premises where more than four cats or dogs or a combination making a total of more than four are kept overnight or where more than ten animals, including those allowed under section 4-4 of this Code, are provided care and supervision regardless of duration, except where accessory to an agricultural use.

Lodginghouse means a building or part thereof, other than a hotel, where lodging is provided for hire, more or less transiently, including so-called tourist homes, and with or without provisions for meals.

Lot means a parcel of land occupied or to be occupied by a building and its accessory buildings together with such open spaces as are required under this chapter and having its principal frontage upon a street.

Lot line. Lot line or adjacent property line shall be any boundary line separating one lot

from another, whether the line be at the side, rear, or front of the properties.

Lot width means the distance from one side lot line to the other side lot line measured at the minimum building setback permitted in this chapter.

Lots, corner, interior, and through. A "corner lot" is a lot of which at least two contiguous sides abut upon a street for their full length. An "interior lot" is a lot other than a corner lot. A "through lot" is an interior lot or a corner lot, having a frontage on two streets which do intersect at a point contiguous to such lot.

Lots, front, rear, and depth. The front of a lot is that boundary line which borders on a street other than an alley. In the case of a through lot, the front of the lot shall be that boundary which does not border on a major street as designated in the major street plan and which would most conform to adjacent development patterns as designated in the approved plat, or otherwise, as determined by the planning and zoning official. In the case of a corner lot, the side which has the narrowest dimension bordering on a street shall be deemed to be the front of such lot. The rear of a lot is the side opposite to the front. In the case of a triangular or irregular lot, the rear is the boundary line not bordering on a street. The depth of a lot is the dimension measured from the front of the lot to the extreme rear line of the lot. In the case of irregularly shaped lots, the mean depth shall be taken.

Marihuana means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

Marihuana establishment 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 the department of licensing and regulatory affairs pursuant to the Michigan Regulation and Taxation of Marihuana Act.

Marihuana grower means a person licensed pursuant to the Michigan Regulation and Taxation of Marihuana Act to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana-infused product means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana, as defined by the Michigan Medical Marihuana Facilities Act, that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused products shall not be considered a food.

Marihuana microbusiness means a person licensed pursuant to the Michigan Regulation and Taxation of Marihuana Act to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

Marihuana processor means a person licensed pursuant to the Michigan Regulation and

Taxation of Marihuana Act to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana retailer means a person licensed pursuant to the Michigan Regulation and Taxation of Marihuana Act to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

Marihuana safety compliance facility means a person licensed pursuant to the Michigan Regulation and Taxation of Marihuana Act to test marihuana, including certification for potency and the presence of contaminants.

Marihuana secure transporter means a person licensed pursuant to the Michigan Regulation and Taxation of Marihuana Act to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Medical marihuana grower facility means a location where an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity is licensed as a commercial entity by the State of Michigan, under the Michigan Medical Marihuana Facilities Act, to cultivate, dry, trim, or cure and package marihuana for sale to a processor or provisioning center.

Medical marihuana processor facility means a location where an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity is licensed as a commercial entity by the State of Michigan, under the Michigan medical marihuana facilities act, to purchase marihuana from a grower and extract resin from the marihuana or create a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Medical marihuana provisioning center facility means a location where an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity is licensed as a commercial entity by the State of Michigan, under the Michigan Medical Marihuana Facilities Act to purchase marihuana from a grower or processor and sell, supply, or provide marihuana to registered qualifying patients, directly or through the patients' primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail, under the Michigan medical marihuana facilities act, to registered qualifying patients or registered primary caregivers. Dispensaries and noncommercial locations used by primary caregivers to assist qualifying patients connected to the caregiver through the marihuana registration process in accordance with the Michigan medical marihuana act are not provisioning centers.

Medical marihuana safety compliance facility means a location where an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity is licensed as a commercial entity by the State of Michigan, under the Michigan Medical Marihuana Facilities Act, to receive marihuana from a marihuana facility or primary caregiver, test it for contaminants

and for tetrahydrocannabinol and other cannabinoids, return the test results and the marihuana to the marihuana facility.

Medical marihuana secure transporter facility means a location where an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity is licensed as a commercial entity by the State of Michigan, under the Michigan Medical Marihuana Facilities Act, to store marihuana and transport marihuana between marihuana facilities for a fee.

Michigan Medical Marihuana Act means the Michigan Medical Marihuana Act, Public Act 1 of 2008, being MCL 333.26421 to 333.26430.

Michigan Medical Marihuana Facilities Act means the Michigan Medical Marihuana Facilities Act, Public Act 281 of 2016, being MCL 333.27101 to 333.27801.

Michigan Regulation and Taxation of Marihuana Act means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, being MCL 333.27951 to 333.27967.

Mixed market rental unit means a rental dwelling unit within a multiple-family dwelling which has a mix of studio, one-bedroom, two-bedroom and three-bedroom units with no more than 25 percent of the units being three-bedroom units and each dwelling unit rented under a single rental contract.

50-94b. Additional Standards for Marihuana Establishments.

(a) *All uses.* Except as may be provided elsewhere in this section or chapter and except to the extent the standards would interfere with or conflict with statutory regulations for the licensing of marihuana facilities under the Michigan Regulation and Taxation of Marihuana Act, each special use permit for a marihuana establishment shall meet the standards of section 50-94(a) and the following standards.

- (1) They shall comply at all times and in all circumstances with the Michigan Regulation and Taxation of Marihuana Act, Michigan Medical Marihuana Facilities Licensing Act, the Michigan Medical Marihuana Act and the rules of the Michigan Department of Health and Human Resources and the department of licensing and regulatory affairs. An approved special use permit issued under this chapter is valid only if the permit holder also holds a valid current state operating license and a copy of the valid current State license has been provided to the City Clerk by the holder.
- (2) They must be located outside of one thousand (1,000) feet from the lot lines of any school, including any licensed facility with after school programs, child care centers, or daycare centers, to insure community compliance with federal “Drug-Free School Zones” requirements.
- (3) They may not be operated out of a residence or residential structure.

- (4) The consumption of alcohol, marihuana or tobacco products on the premises is prohibited.
- (5) The facility shall be operated and maintained at all times so that any by-products or waste of any kind shall be properly and lawfully kept and disposed of so as to preclude any risk of harm to the public health, safety or welfare.
- (6) Except when in the process of being transferred, being processed, or during the process of testing all marihuana and marihuana infused product shall be contained within an enclosed, locked facility, inaccessible on all sides and equipped with locks that permit access only by the licensed growers or their employees, as reviewed and approved by the building official and the police department.
- (7) The facility shall be designed, operated, and maintained at all times consistent with responsible business practices so that there shall be no excessive demands placed upon public safety services, nor any excessive risk of harm to the public health, safety, or sanitation, or environmental quality, interference with vehicular or pedestrian traffic or parking, or the continuance or maintenance of any conduct unlawful under state or local law, public nuisance, or disorderly conduct either within the establishment or on or about the adjacent businesses and public streets, alleys, parks, parking facilities, or other areas open to the public. The establishment shall make reasonable effort to report to authorities any conduct unlawful under state or local law that is observed from the premises.
- (8) No marihuana shall be cultivated, grown, manufactured, or processed in any manner that would emit odors reasonably discernable to another person outside the area from which the odor is generated. If the facility is in a building, the odor must be prevented by the installation of an operable filtration to ventilation and exhaust equipment and odors must otherwise be effectively confined to the interior of the building from which the odor is generated.
- (9) Cultivation of marihuana in an outdoor facility shall be permitted so long as the area is enclosed, locked, and inaccessible on all sides, and that the structure meets all building code and zoning regulations.
- (10) The licensee of any facility must pay an annual, nonrefundable fee of \$5,000.00 to the city.
- (11) The proposed size, height, architectural character and placement of any renovated structures on the site shall be reasonably compatible with the existing or anticipated buildings on adjacent properties.

(b) *Additional specific special use standards for marihuana retailers.* In addition to the standards set forth in this section and section 50-94(a) of this code, to address their unique characteristics, marihuana retailers shall also meet the applicable standards below except to the extent the standard or standards would interfere with or conflict with statutory regulations for the licensing of marihuana establishments under the Michigan Regulation and Taxation of Marihuana

Act.

- (1) The establishment shall not cause or continue an undue concentration of similar uses in the neighborhood such that medical marihuana provisioning center facilities and paraphernalia trade become a dominant influence or feature of the district or neighborhood.
- (2) Hours of operation must be set between 8 a.m. and 9 p.m.
- (3) No marihuana or marihuana-infused products shall be visible from the exterior of the facility.
- (4) All marihuana and marihuana-infused products shall be contained within locked containers or locked display cases unless being displayed to a patient or a customer on the premises by a caregiver or retailer.
- (5) The operators of the marihuana retail establishment shall provide an annual donation in the amount of 1% of net profits from its operations or \$5,000.00, whichever amount is greater, to an organization qualifying for exemption from taxation pursuant to 26 USC 501(c)(3) largely benefitting the residents of East Lansing and organized and operated exclusively for purposes of improving the lives of people with low to moderate income, conserving or improving natural resources, or preventing cruelty to children or animals, and with the use of the funds being in accordance with MCL 125.3504.
- (6) The marihuana retailers must have been issued a special use permit for a medical marihuana provisioning center facility and have an equivalent license issued by the State as defined by the administrative rules for the Michigan Regulation and Taxation of Marihuana Act for the same.

Sec. 50-154. - Uses prohibited unless permitted.

- (a) Dispensaries and primary caregiver operations that are not otherwise identified as a permitted use in a district are prohibited.
- (b) Medical Marihuana Facilities that are not otherwise identified as a permitted use in a district are prohibited.
- (c) Marihuana Establishments that are not otherwise identified as a permitted use in a district are prohibited.

Sec. 50-612. - Permitted uses.

The following uses of buildings and premises shall be permitted in the B-4 district.

- (1) Principal uses permitted, subject to an approved site plan as provided for in section 50-36 of this chapter where no building on the site exceeds two stories in height

and where the total gross square footage of all principal buildings on the site does not exceed 25,000 square feet:

- a. General and professional offices;
 - b. Dental or medical offices, clinics, or laboratories;
 - c. Financial institutions;
 - d. Parking lots developed and operated as an accessory use to serve one or more business, office, or multiple-family uses located within 200 feet from the lot; and
 - e. ATMs which are the principal use of the lot, or those enclosed within an existing principal building; and
 - f. Colleges, universities, business or trade schools or similar education or training facilities.
- (2) Principal uses permitted, subject to an approved special use permit as provided for in article II, division 3 of this chapter.
- a. Automatic teller machines, externally attached to a principal building, except those which are drive-in accessible, unless provided in conjunction with a bank for financial institution as provided below.
 - b. Drive-in banks or financial institutions, including drive-in accessible automatic teller machines.
 - c. Any use(s) permitted in subsection (1) of this section where a building is more than two stories in height or where the total gross square footage of all principal buildings on the site exceeds 25,000 square feet.
 - d. Dispensaries and primary caregiver operations.
 - f. Medical marihuana safety compliance facilities, marihuana safety compliance facilities, medical marihuana secure transporter facilities and marihuana secure transporter facilities.
- (3) Accessory uses permitted:
- a. Cafeterias provided principally for employees;
 - b. Recreational or exercise facilities provided principally for employees or patients;

- c. Board rooms and similar assembly facilities; and
- d. Other uses or facilities subordinate to and customarily incidental to the permitted principal use.

Sec. 50-632. - Permitted uses.

The following uses of buildings and premises shall be permitted in the B-5 district.

- (1) Principal uses permitted subject to an approved site plan as set forth in section 50-36 of this chapter:
 - a. Retail business establishments with a community-wide trade area or greater, such as department stores, furniture stores, appliance stores, apparel shops, and businesses of a like nature, excluding drive-in uses and excluding those uses which require extensive storage of bulk materials or merchandise in a separate building or upon the premises; and excluding establishments licensed for the sale at retail of alcoholic liquor, as defined by section 105(2) of the Michigan Liquor Control Code of 1998, MCL 436.1105, including specially designated merchants and specially designated distributors as described at MCL 436.1537.
 - b. General and professional offices, medical and dental offices and laboratories, and banks and financial institutions, excluding drive-in uses.
 - c. Restaurants, except restaurants licensed for the sale of alcoholic beverages or alcoholic liquor as defined by section 105(2) of the Michigan Liquor Control Code of 1988, MCL 436.1105, cafes, and similar establishments, including such establishments having outdoor dining areas, but excluding drive-in uses.
 - d. Shopping centers containing uses permitted in this district and also permitting personal service establishments and retail stores which sell groceries, baked goods, or other food products and beverages.
 - e. Public assembly buildings including theaters, auditoriums, and banquet facilities.
 - f. Hotels and motels.
 - g. Colleges, universities, business or trade schools or similar education or training facilities.
- (2) Principal uses permitted subject to an approved special use permit as provided for

in article II, division 3 of this chapter.

- a. Drive-in banks or financial institutions.
 - b. Drive-in restaurants.
 - c. Recreation facilities similar to bowling alleys, health or exercise centers, and racquet or court facilities.
 - d. Restaurants licensed for the sale of alcoholic beverages or alcoholic liquor as defined by section 105(2) of the Michigan Liquor Control Code of 1988, MCL 436.1105.
 - e. Establishments licensed for the sale at retail of alcoholic liquor, as defined by section 105(1) of the Michigan Liquor Control Code of 1998, MCL 436.1105, including specially designated merchants and specially designated distributors as described at MCL 436.1537.
 - f. Medical marihuana safety compliance facilities, marihuana safety compliance facilities, medical marihuana secure transporter facilities and marihuana secure transporter facilities.
- (3) Accessory uses permitted.
- a. Any use customarily incidental and subordinate to the main use of the building or lot.
 - b. ATMs enclosed within a principal building.

Sec. 50-651. - Uses permitted.

Uses permitted in the M-1 district are as follows:

- (1) Principal uses permitted subject to an approved site plan as set forth in section 50-36 of this chapter:
- a. Wholesale business, i.e., storage in bulk of, or warehouse for such material as building material, contractors equipment, clothing, cotton, drugs, dry goods, feed, food, furniture, hardware, ice, machinery, metals, paints and paint supplies, pipe, rubber, shop supplies, tobacco, wood, or similar products.
 - b. Painting, varnishing, or vulcanizing shop.
 - c. Cold storage plant.

- d. Bottling works, including milk bottling or distribution station.
- e. Manufacture of food products.
- f. Public garage, motor vehicle repair shop, automobile paint and bump shop, or car washing establishment.
- g. Tin shop or plumbing supply shop.
- h. Light manufacturing and wholesale business, provided that, the conduct of such business is not objectionable as being unsightly, odorous, or noisy.
- i. Coal or building materials storage yard.
- j. Kennel.
- k. Veterinary hospital or clinic.
- l. Contractor's storage yard.
- m. Research laboratory.
- n. Radio and television towers.

(2) Principal uses permitted subject to an approved special use permit as provided for in article II, division 3 of this chapter.

- a. Medical marihuana grower facilities, marihuana growers, medical marihuana processor facilities, marihuana processors, medical marihuana secure transporter facilities and marihuana secure transporter facilities.

DIVISION 7. MEDICAL MARIHUANA PROVISIONING CENTER FACILITIES AND MARIHUANA RETAIL OVERLAY DISTRICTS.

Sec. 50-801. Purpose and objectives.

The purpose and objectives of the medical marihuana provisioning center facilities and marihuana retail overlay district is to allow for the unique activity of medical marihuana provisioning center facilities and marihuana retailers within the city while achieving land management objectives of appropriate placement of said uses within the city while segregating the use from certain other land uses in order to avert situations in which such a use may have a deleterious effect on neighboring properties or the city as a whole.

Sec. 50-802. Medical Marihuana Provisioning Center Facilities and Marihuana Retailer Overlay Districts.

The following medical marihuana provisioning center facilities and marihuana retailer overlay districts are hereby established within the city.

(a) A district containing those parcels of property bounded by the existing B2 - Retail Sales Business - District south of Michigan Avenue and west of Brody Road.

(b) A district containing those parcels of property north of Abbey Road as extended to U.S. 127, west of Coolidge Road, east of U.S. 127 and south of the northern boundary line of the existing OIP - Office Industrial Park – District as extended to U.S. 127.

(c) A district containing those parcels of property bounded by Park Lake Road, Haslett Road, and Merritt Road.

(d) A district containing those parcels of property abutting the south side of Grand River Avenue between Cedar Street to the west and Hagadorn Road to the east.

Sec. 50-803. Permitted Uses.

Permitted principal uses, subject to an approved special use permit, as provided for in Article II, Division 3 of this Chapter are:

(a) Medical marihuana provisioning center facilities if they meet the standards of and are operated in accordance with the standards set forth in Sec. 50-94(a) and Sec. 50-94a (a) and (b); and

(b) Marihuana retailers if they meet the standards of and are operated in accordance with the standards set forth in Sec. 50-94(a) and Sec. 50-94b (a) and (b) and have been issued a special use permit for a medical marihuana provisioning center facility at the same location and have a current, valid equivalent license, as defined by the State administrative rules, issued by the State for the operation of a medical marihuana provisioning center within the City of East Lansing.