

ZONING ORDINANCE NO. 2020-05

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF DAVISON TO

- AMEND CHAPTER 1260, ADD NEW DEFINITIONS PERTAINING TO MEDICAL MARIHUANA FACILITIES;
- ADD CHAPTER 1291, CREATING MM MEDICAL MARIHUANA OVERLAY DISTRICT.

The City of Davison ordains:

CHAPTER 1260 General Provisions and Definitions.

Chapter 1260.05 – Definitions. Section 1260.05 of the City of Davison's Zoning Ordinance is amended to include the following definitions, in alphabetical order:

LARA: The Michigan Department of Licensing and Regulatory Affairs

Licensee: An entity that holds a license issued under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, that allows the licensee to operate as one of the following, specified in the license:

- A grower
- A processor
- A secure transporter
- A provisioning center
- A safety compliance facility

Marihuana: The term as defined in section 7106 of the public health code, 1978 PA 368, MCL § 333.7106 et seq.; the Michigan Medical Marihuana Act, MCL § 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq.; and the Marihuana Tracking Act, MCL§ 333.27901 et seq.

Medical Marihuana Facility: An enterprise at a specific location at which a licensee is licensed and a permit holder is permitted to operate under the Medical Marihuana Facilities Licensing Act. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL § 333.26421 et seq.

Medical Marihuana Permit: A current and valid Permit for a Medical Marihuana Facility issued under the City's Medical Marihuana Facilities Ordinance, granted in accordance with that Ordinance.

Provisioning Center: 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 the department's Marihuana registration process in accordance with the Michigan Medical Marihuana Act (MCL § 333.26421 et seq.) is not a provisioning center for purposes of this Ordinance.

CHAPTER 1291 – MM Medical Marihuana Overlay District.

Chapter 1291 of the City of Davison's Zoning Ordinance, MM Medical Marihuana Overlay District, is hereby added, as follows:

1291.01 Intent and Purpose.

The Medical Marihuana Overlay District is designed to provide for and regulate Medical Marihuana Facilities in accordance with the Michigan Medical Marihuana Facilities Licensing Act so as to protect the public health, safety, and welfare of the residents and patients of the City and to establish reasonable and uniform regulations for their operation, while preserving the small-town, unique character of the City of Davison by:

- (1) Providing reasonable limitations on Marihuana business operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the facility and its personnel, and other health and safety concerns; and
- (2) Protecting the character of residential neighborhoods by limiting the location and the concentration of types of Medical Marihuana Facilities to specific areas of the City compatible with such uses.

The provisions of this article have neither the purpose nor effect of granting immunity from any criminal prosecution under Federal law or granting immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of Marihuana in any form, that is not in strict compliance with all applicable laws and rules promulgated by the State of Michigan and the City of Davison regarding medical Marihuana. This Article does not provide any rights or privileges with regard to Marihuana under the Michigan Regulation and Taxation of Marihuana Act, MCL § 333.27102.

1291.02 Scope.

The requirements of this Chapter shall apply to all lands that are designated as MM Medical Marihuana Overlay Districts and are shown on the City of Davison Zoning Map. The provisions and restrictions of this Chapter shall be considered to apply in addition to, and, where applicable, instead of, the provisions of the underlying zoning districts shown on the official Zoning Map, sufficient to fulfill the purposes of this Chapter.

Medical Marihuana Facilities as defined by this Ordinance are allowed in the Medical Marihuana Overlay District as an additional conditional use, subject to the conditional uses permit requirements of Chapter 1262, the site plan review procedures of Chapter 1262, the design review provisions of Chapter 1263, and the provisions of this Chapter.

1291.03 Required Conditions.

Medical Marihuana Facilities as defined by this Ordinance shall be subject to the following general regulations:

(a) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law are prohibited in the City. In the event that a court with jurisdiction declares some or all of this Chapter invalid, the City may suspend the acceptance of applications for licensing or active Medical Marihuana Permits pending the resolutions of the legal issue in question.

(b) An operator of a Medical Marihuana Facility shall at all times have a valid Medical Marihuana Facility Permit issued by the City pursuant to Chapter 810 of the Davison Code of Ordinances, as amended, and a State operating license as issued by LARA pursuant to the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq.

(c) A property owner or operator of a Medical Marihuana Facility shall not have vested rights or prior nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any applicable amendment thereto.

1291.04. Site Development Location.

- (a) Only one Medical Marihuana Facility is permitted per parcel or lot.
- (b) A separation distance of five hundred (500) feet is required from any other Medical Marihuana Facility or a marihuana establishment.
- (c) A Medical Marihuana Facility is not permitted within seven hundred (700) feet of any private or public elementary or secondary school (K-12), church, library, public park, licensed day care center, or property zoned A-1, A-2, or A-3 Residential.
- (d) The distances described in this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in this section above to the nearest property line for the property on which the Medical Marihuana Facility is located.
- (e) The separation distances contained in this section are applicable to Marihuana facilities and establishments located in adjacent governmental jurisdictions.
- (f) A Medical Marihuana Facility is not permitted on the same property or parcel or within the same building where any of the following are located: a package liquor store, a convenience store that sells alcoholic beverages or a fueling station that sells alcoholic beverages.

1291.05. Site Use – Additional conditions.

- (a) No person shall reside in or permit any person to reside in a Medical Marihuana Facility.
- (b) No smoking, inhalation, or consumption of Marihuana shall take place on the premises of any Medical Marihuana Facility.
- (c) All activities of a Medical Marihuana Facility including, without limitation, displaying, manufacturing, selling, and storage of Marihuana and Marihuana-

infused products, shall be conducted indoors. Medical Marihuana Facilities may not provide drive-through service.

- (d) No equipment or process shall be used in any Medical Marihuana Facility which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property boundary.
- (e) The hours of operation shall be restricted to between the hours of 8:00 a.m. and 8:00 p.m. Monday through Saturday and Sunday 12:00 p.m. to 6:00 p.m.
- (f) The Medical Marihuana Facility shall be subject to inspection by law enforcement, city building officials and members of the Michigan Department of Community Health during the hours of operation.
- (g) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the Medical Marijuana Facility in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
- (h) No alcoholic beverage shall be sold, conveyed or consumed on the premises of any Medical Marijuana Facility.
- (i) Persons under the age of 18 years of age are not permitted to be on the premises of any Medical Marijuana Facility unless they possess a valid medical marijuana registry card issued by the State of Michigan or another state.
- (j) Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a Medical Marihuana Facility and any adjacent business.
- (k) A Permit holder shall not operate a Medical Marihuana Facility any place in the City other than the address provided in the Permit application on file with the City Clerk.

1291.06 Signs.

Signage for Medical Marihuana Facilities shall comply with the requirements of the City of Davison Sign Ordinance (Chapter 1292) and the requirements of this Section. All signage and advertising for a Medical Marihuana Facility shall also comply with all applicable provisions of this Code and the State of Michigan. When there is a conflict between the City's Sign Ordinance, this Ordinance and state standards, the more restrictive standards shall control.

Medical Marihuana Facilities may not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects. Facilities may not use exterior signage or displays that contain an image of a marijuana leaf or other commonly recognized symbol for marijuana or which utilize any of the following words: marijuana, marihuana, weed, cannabis, blunt, doobie, joint, hooch, hash, or other similar slang term for marijuana or marijuana-related products.

1291.07 Site Plan Review.

Prior to the establishment of a new use, change of use, addition to an existing use, or the erection of any building, a site plan shall be submitted and approved, or approved with conditions in accordance with the requirements of this Zoning Code.

In addition to the materials required for the site plan review procedures of Chapter 1262 and the design review provisions of Chapter 1263, an application for a Marihuana Facility shall also include a comprehensive facility operation and safety plan that addresses Marihuana, customers, employees, and neighboring residents, offices, or businesses. This document shall contain, at minimum, a safety/security plan indicating how the applicant will comply with the requirements of this Ordinance and any other applicable law, rule or regulation. The security systems identified below and contained in the security plan, shall be maintained in good working order and provide twenty-four hours per day coverage. A separate security system is required for each facility. The security plan must include the following security measures:

(a) Cameras. The Medical Marihuana Facility shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to Marihuana or cash. Cameras shall record operations of the business, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be recorded to and maintained for a minimum of thirty (30) days at a secure offsite location in the City or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the City and provided to the City Police Department upon request, and updated within seventy-two (72) hours of any change of such location. Security cameras shall be directed to record only the subject property and may not be directed to public rights-of-ways as applicable, unless required to comply with licensing requirements of the State of Michigan.

(b) Alarm system. The Medical Marihuana Facility shall install and use an alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and updated within seventy-two (72) hours of any change of monitoring company.

(c) Lighting. A lighting plan showing the lighting outside of the Medical Marihuana Facility for security purposes and compliance with applicable City requirements.

(d) Use of Safe for Storage. The Medical Marihuana Facility shall install and use a safe for storage of any processed Marihuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For Marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe so long as the container is affixed to the building structure.

(e) Disposal Plan. A disposal plan shall be designed to protect against any Marihuana being ingested on the premises by any person or animal. Disposal of any Marihuana, including any/all byproducts and/or waste products shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it or otherwise exist in non-conformance with local and state laws. The plan shall indicate how any Marihuana will be rendered unusable and how the waste and byproduct will be stored until disposed of.

(f) **Ventilation.** A plan for ventilation of the Medical Marihuana Facility should include the methods to be used to contain all smoke, odors, debris, dust, fluids and other substances within the building. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a Medical Marihuana Facility must be provided at all times.

(g) **Regulated Materials.** A description of all toxic, flammable or other regulated materials that will be used or kept at the Medical Marihuana Facility along with the location of such materials, and a description as to how such materials will be stored. All chemicals or hazardous substances used in the storage of Marihuana shall be stored and used in strict compliance with manufacturer recommendations and all applicable federal, State or local regulations.

(h) **Operations.** An operations statement that describes, but is not limited to, the life-cycle of Marihuana and Marihuana-infused products entering, stored on, and leaving the site. This may include a description of how deliveries are handled, methods of storage, cash handling, a business floor plan, or other pertinent information.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby revised as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

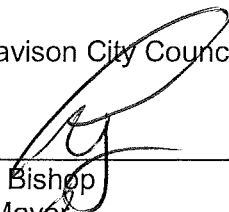
If any of the standards set forth in this amendment conflict with any other standards of previous or further ordinances or amendments, the stricter standards shall apply.

All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

This ordinance shall take effect seven (7) days after notice of ordinance adoption has been published as required by MCL 125.3401, but not less than ten (10) days after it has passed as required by Charter.

Adopted, enacted and ordained by the City of Davison City Council this 13th day of July 2020.



Tim Bishop
Its Mayor



Andrea Schroeder
Its Clerk