

**CITY OF DAVISON
ZONING ORDINANCE NO. 2022-04**

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

- **AMEND CHAPTER 1260, ADD AND REVISE DEFINITIONS PERTAINING TO MARIHUANA FACILITIES AND ESTABLISHMENTS;**
- **AMEND CHAPTER 1291, REGARDING MM MEDICAL MARIHUANA OVERLAY DISTRICT, RENAMED M 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:

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.

Marihuana Establishment. means a location at which a licensee is licensed to operate 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 to operate by the agency under the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951.

CHAPTER 1291 – MM Medical Marihuana Overlay District.

Chapter 1291.04 of the City of Davison’s Zoning Ordinance, MM Medical Marihuana Overlay District, is hereby amended, as follows:

The name of the Overlay District shall be M Marihuana Overlay District.

1291.01 INTENT AND PURPOSE.

(a) The Marihuana Overlay District is designed to provide for and regulate Marihuana Facilities and Establishments in accordance with Michigan laws concerning medical and adult use Marihuana 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 or Establishment 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 Marihuana Facilities and Establishments to specific areas of the City compatible with such uses.

(b) The provisions of this chapter 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 Marihuana.

1291.02 SCOPE.

(a) The requirements of this Chapter shall apply to all lands that are designated as M 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 and Establishments as permitted by General Ordinance are allowed in the 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.

Marihuana Facilities and Establishments as defined by Michigan law 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 Marihuana permits pending the resolutions of the legal issue in question.

(b) An operator of a Marihuana Facility or Establishment shall at all times have a valid permit issued by the City pursuant to Chapters 809 and 810 of the Davison Code of Ordinances, as amended, and a State operating license as issued by LARA.

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

1291.04 SITE DEVELOPMENT LOCATION.

(a) The Marihuana Overlay District shall consist of properties that are located in the Commercial Central Business District (C-1). 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 district shown on the official Zoning Map, sufficient to fulfill the purposes of this chapter.

(b) A separation distance of 500 feet is required from any other medical Marihuana Facility or a Marihuana Establishment; Facilities/Establishments that are located on the same lot are exempt from this provision as to one another.

(c) 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 Marihuana Facility or Establishment is located.

(d) The separation distances contained in this section are applicable to Marihuana Facilities and Establishments located in adjacent governmental jurisdictions.

(e) A Marihuana Facility or Establishment 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 Marihuana Facility or Establishment.

(b) No smoking, inhalation, or consumption of Marihuana shall take place on the premises of any Marihuana Facility or Establishment.

(c) All activities of a Marihuana Facility or Establishment including, without limitation, displaying, manufacturing, selling, and storage of Marihuana and Marihuana-infused products, shall be conducted indoors. Marihuana Facilities and Establishments may not provide drive-through service.

(d) No equipment or process shall be used in any Marihuana Facility or Establishment 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) Marihuana Facilities and Establishments 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 marijuana Facility or Establishment 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 marijuana Facility or Establishment.

(i) Persons under the age of 18 years of age are not permitted to be on the premises of any Marihuana Facility unless they possess a valid medical marijuana registry card issued by the State of Michigan or another state. Persons under the age of 21 shall not have access to adult-use Marihuana or any area of an Establishment.

(j) Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a Marihuana Facility or Establishment and any adjacent business.

(k) A permit holder shall not operate a Marihuana Facility or Establishment any place in the City other than the address provided in the permit application on file with the City Clerk.

1291.06 SIGNS.

(a) Signage for Marihuana Facilities and Establishments 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 Marihuana Facility or Establishment 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.

(b) Marihuana Facilities and Establishments 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 Marihuana 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 Marihuana or Marihuana-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/Establishment shall also include a comprehensive 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 chapter 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/Establishment. The security plan must include the following security measures:

(a) Cameras. Marihuana Facilities and Establishments 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 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 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. Marihuana Facilities and Establishments shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven 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 hours of any change of monitoring company.

(c) Lighting. A lighting plan showing the lighting outside of the Marihuana Facility or Establishment for security purposes and compliance with applicable City requirements shall be provided to the City.

(d) Use of Safe for Storage. The Marihuana Facility or Establishment 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 nonconformance 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 Marihuana Facility or Establishment 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 Marihuana Facility or Establishment 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 Marihuana Facility or Establishment along with the location of such materials, and a description as to how such materials will be stored shall be provided. 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 lifecycle 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 9th day of May, 2022.

Tim Bishop
Its Mayor

Andrea Schroeder
Its Acting Clerk

I certify that the above Ordinance was published in the Davison Index on the 12th day of May, 2022, A.D.

Andrea Schroeder, Acting Clerk