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CITY OF EAST LANSING

SUBSTITUTE ORDINANCE NO. 1245 C

AN ORDINANCE TO AMEND SECTIONS 8-551, 8-561 AND 8-564 OF ARTICLE IX OF CHAPTER 8 – BUSINESSES – AND TO AMEND SECTIONS 50-6 AND 50-8 OF ARTICLE I – IN GENERAL – AND SECTION 50-94 OF DIVISION 3 – SPECIAL USE PERMIT – OF ARTICLE II – ADMINISTRATION AND ENFORCEMENT – AND TO ADD SECTION 50-154 TO ARTICLE III – GENERAL DISTRICT REGULATIONS – AND AMEND SECTION 50-612 OF DIVISION 5 – RESTRICTED OFFICE BUSINESS DISTRICT, B-4 – OF ARTICLE VI – BUSINESS, OFFICE AND INDUSTRIAL DISTRICTS – OF CHAPTER 50 – ZONING – OF THE CODE OF THE CITY OF EAST LANSING IN ORDER TO DEFINE AND ESTABLISH STANDARDS FOR DISPENSARIES AND PRIMARY CAREGIVER OPERATIONS AND ALLOW THEM AS A PERMITTED USE IN THE B-4 DISTRICTS WITH A SPECIAL USE PERMIT.

THE CITY OF EAST LANSING ORDAINS:

Sections 8-551, 8-561 and 8-564 of Article IX of Chapter 8 – Businesses – and Sections 50-6 and 50-8 of Article I – in General – and Section 50-94 of Division 3 – Special Use Permit – of Article II – Administration and Enforcement – and Section 50-147 of Article III – General District Regulations – and Section 50-612 of Division 5 – Restricted Office Business District, B-4 – of Chapter 50 – Zoning – of the Code of the City of East Lansing are hereby amended and Section 50-154 is hereby added to Article III – General District Regulations – of Chapter 50 – Zoning – of the Code of the City of East Lansing to read as follows:

**Sec. 8-551. Definitions.**

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

*Act* means the Michigan Medical Marihuana Act.

*Dispensary* means any of the following: (1) two or more primary caregivers growing

medical marihuana in the same building, structure or lot except for multiple-unit residential structures; (2) two or more primary caregivers storing medical marihuana in the same building, structure or lot except for multiple-unit residential structures; (3) two or more primary caregivers delivering, transferring, or providing qualifying patients with Medical Marihuana out of the same building or lot except for multiple-unit residential structures; (4) two or more primary caregivers growing medical marihuana in the same unit of a multiple-unit residential structure; (5) two or more primary caregivers storing medical marihuana in the same unit of a multiple-unit residential structure; or (6) two or more primary caregivers delivering, transferring or providing qualifying patients with medical marihuana out of the same unit of a multiple-unit residential structure.

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

*Primary caregiver* means a person who is registered under the Michigan Medical Marihuana Act and is defined as a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.

*Primary caregiver operation* means either of the following: (1) a building, structure or lot from which a single primary caregiver transfers, delivers or provides marihuana to his or her qualifying patients; or (2) a building, structure or lot where a primary caregiver grows and/or stores medical marihuana that is not the primary caregiver's primary residence.

*Qualifying patient* means a person who has been diagnosed by a physician as having a debilitating medical condition for purposes of the Act.

*Registered qualifying patient* means a person who has been diagnosed by a physician as having a debilitating medical condition and who has received a registry identification card.

*Registry identification card* means a document issued by the department of community health that identifies a person as a registered qualifying patient or registered primary caregiver.

*Usable marihuana* means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.

**Sec. 8-561. Required; Prohibitions; fee; application.**

(a) No person shall conduct a primary caregiver operation or allow, operate, or assist in the operation of a dispensary except in compliance with the zoning regulations and without the dispensary or primary caregiver operation having first obtained and being in possession of a valid license issued by the city clerk.

(b) Application shall be made annually on forms provided by the city clerk which shall require the full legal name, date of birth of each primary caregiver and address of the intended location of the dispensary or primary caregiver operation, a copy of the approved special use

permit for the identified address, a copy of each primary caregiver's registry identification card, the number of registered qualifying patients for each primary caregiver and the registry identification numbers of each registered qualifying patient of each primary caregiver, the maximum amount of usable marihuana and maximum number of marihuana plants the primary caregiver may have on the property at any one time, whether marihuana will be grown on the premises and whether any electrical devices are used or intended to be used in conjunction with the growing of the marihuana, and whether any structural modifications have been made or are intended to be made in conjunction with the license.

(c) The initial application fee and renewal fees shall be established by special resolution of the council, thereafter they shall be established by annual budget resolution of the city council.

**Sec. 8-564. Effect of license; suspension; daily violation.**

(a) A license is valid only for the location identified on the license and cannot be transferred to another location within the city without a new application.

(b) A license does not prohibit prosecution by the federal government of its laws or prosecution by state authorities for violations of the act or other violations not protected by the act.

(c) Compliance with city ordinances and state statutes is a condition of maintenance of a license and a license may be suspended for cause pursuant to the provisions of this chapter.

(d) Suspension of a license is not an exclusive remedy and nothing contained herein is intended to limit the city's ability to prosecute code violations that may have been the cause of the suspension or any other code violations not protected by this act.

(e) Each day that a person shall conduct a primary caregiver operation without a license or allow, operate, or assist in the operation of a dispensary without the dispensary first having obtained and being in possession of a valid license for that property shall constitute a separate offense.

**Sec. 50-6. Definitions, D through F.**

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:

*Diameter (d.b.h.)* means the diameter of a tree as measured at 4.5 feet above grade level.

*Dispensary* means any of the following: (1) two or more primary caregivers growing medical marihuana in the same building, structure or lot except for multiple-unit residential structures; (2) two or more primary caregivers storing medical marihuana in the same building, structure or lot except for multiple-unit residential structures; (3) two or more primary caregivers delivering, transferring or providing qualifying patients with medical marihuana out of the same

building, structure or lot except for multiple-unit residential structures; (4) two or more primary caregivers growing medical marihuana in the same unit of a multiple-unit residential structure; (5) two or more primary caregivers storing medical marihuana in the same unit of a multiple-unit residential structure; or (6) two or more primary caregivers delivering, transferring or providing qualifying patients with medical marihuana out of the same unit of a multiple-unit residential structure.

*Domestic unit.* See subsection (3) under Family.

*Drive-ins* means establishments which offer goods or services directly to customers either waiting in motor vehicles or to customers who return to their vehicles to consume the goods while on the premises. Car washing establishments are deemed to be drive-ins.

*Driveway* means a paved surface which provides for access for motor vehicles from a street, alley, or private road to one or more garages, carports, parking spaces, or parking lots. Driveways may also include paved areas provided for maneuvering vehicles on a lot, such as circular driveways and turnarounds.

*Dwelling* means any house, building, structure, shelter, or portion thereof which is designed for, or occupied exclusively as the home, residence, living or sleeping place of one or more human beings, either permanently or transiently.

*Dwelling unit* means a room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, and cooking, excluding public halls, public stairs, and areas not included within the perimeter of the room or group of rooms.

*Dwellings, classes of.* For the purpose of this chapter dwellings are divided into the following classes: (1) "one-family dwellings," (2) "two-family dwellings," and (3) "multiple-family dwellings."

- (1) A one-family dwelling is a detached building designed for or occupied exclusively by one family.
- (2) A two-family dwelling is a detached building designed for or occupied exclusively by two families living independently of each other.
- (3) A multiple-family dwelling is a building used or designed as a residence for three or more families living independently of each other or occupied by five or more unrelated persons whether or not equipped with cooking facilities, including apartments, hotels, fraternities, and sororities.

*Dwellings, classes of multiple.* All multiple dwellings for the purpose of this chapter are divided into two classes, namely: class A and class B.

- (1) Class A. Multiple dwellings of class A are dwellings which are occupied for

residence purposes and in which the rooms are occupied in apartments, suites or groups, in which each combination of rooms is so arranged and designed as to provide a separate room for cooking and kitchen sink accommodations or a kitchenette, and a toilet room within each of the separate units. This class includes tenement houses, flats, apartment houses, apartment hotels, bachelor apartments, and all other dwellings similarly occupied whether specifically enumerated herein or not.

- (2) Class B. Multiple dwellings of class B are dwellings which are occupied by individuals who are lodged, with or without meals, and in which as a rule the rooms are occupied singly and without any provision therein or therewith for cooking or kitchen accommodations for the individual occupants. This class includes fraternities, sororities, hotels, lodgings, boardinghouses, roominghouses, and all other dwellings similarly occupied, whether specifically enumerated herein or not.

*Erected* includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erecting.

*Essential services* means the erection, construction, alteration, maintenance, addition, reconstruction, or replacement or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead distribution of gas, electricity, communications (but excluding wireless communication facilities), steam, or water transmission or distributing systems, collection, supply or disposal systems including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection with such lines, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service to this city and surrounding territory by such public utilities or municipal departments or commissions or for public health, safety, or general welfare.

*Extended care/nursing facility* means a building wherein infirm, aged, or incapacitated persons are accepted and furnished, for compensation, care, food and lodging and may receive on-site medical care.

*Family.*

- (1) Family means one person, two unrelated persons; or where there are more than two persons residing in a dwelling unit, persons classified constituting a family shall be limited to husband, wife, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson, granddaughter, aunt, uncle, stepchildren, and legally adopted children, or any combination of the above persons living together in a single dwelling unit.
- (2) Anyone seeking the rights and privileges afforded a member of a family by this

Code shall have the burden of proof by clear and convincing evidence of their family relationship.

- (3) Domestic unit: As herein defined, a domestic unit shall be given the same rights and privileges and shall have the same duties and responsibilities as a family, as defined herein for purposes of construing and interpreting this chapter. Domestic unit shall mean a collective number of individuals living together in one dwelling unit whose relationship is of a regular and permanent nature and having a distinct domestic character or a demonstrable and recognizable bond where each party is responsible for the basic material needs of the other and all are living and cooking as a single housekeeping unit.
- (4) This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization, nor include a group of individuals whose association is temporary or seasonal in character or nature or for the limited duration of their education, nor a group whose sharing of a house is not to function as a family, but merely for convenience and economics.
- (5) Any person seeking the rights and privileges afforded a member of a domestic unit by this chapter shall have the burden of proof by clear and convincing evidence of each of the elements of a domestic unit.
- (6) Nothing in this section shall be deemed to confer any legal rights upon any person on the basis of conduct otherwise unlawful under any existing law.

*First story* means the lowest story of a building, the ceiling of which is more than six feet above the average finished grade at the front of the building, or a public sidewalk adjacent to its exterior walls.

*Floor area, gross*, means the total of all floor areas of a building as measured to the outside surfaces of exterior walls and including halls, stairways, elevator shafts, attached garages, porches, balconies, and basements.

*Floor area, net*, means the total of all floor areas of a building excluding stairwells and elevator shafts; maintenance, equipment, and utility rooms; interior vehicular parking or loading areas; common or public areas such as central lobbies, hallways, and restrooms; and all areas below first or ground floor when used solely for ancillary storage.

#### **Sec. 50-8. Definitions, N through R.**

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:

*Natural feature* means natural topography, rivers, streams, lakes, ponds, marshes, wetlands, surface drainage ways, flood plains, floodways, any tree of four inches in diameter or

more, cluster of trees, cluster of shrubs exceeding two feet in height, or any other natural ground cover which increases the resistance of soil or rock to erosion, sedimentation, sliding, or other earth movement.

*Nonconforming building* means any building which does not conform to the regulations for the district in which it is located.

*Nonconforming lot* means any lot which does not meet the minimum dimensions, area, or other regulations of the district in which the lot is located.

*Nonconforming use of building* means the use of any building other than a use specifically permitted in the district in which the building is located and which was a lawful use at the time of passage of the 1960 zoning ordinance or amendments thereto.

*Nonconforming use of land* means the use of any land other than a use specifically permitted in the district in which the lot or parcel of land is located.

*Nuisance* shall embrace public nuisance as known in common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewerred, drained, cleaned, or lighted, in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome are also severally, in contemplation of this chapter, nuisances, and all such nuisances are hereby declared illegal.

*Open space* means an area of land associated with and located on the same tract of land as a major building or group of buildings, in relation to which it serves to provide light and air or scenic, recreational, or similar purposes. Such space shall be suitably improved for its intended use. Such space shall, in general, be of such a location, shape, and character suitable for entry and use by the occupants of the building or buildings involved, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants of those in neighboring areas, or a general appearance of openness. Open space area may include, but shall not be limited to lawns, decorative plantings, wooded areas, landscaped areas covering structures that are not more than 12 feet above ground level, sidewalks and walkways, active and passive recreational areas, and permanent water surfaces that comprise not more than 20 percent of the total open space area. It shall not include parking lots or other vehicular surfaces or accessory buildings other than swimming pools.

*Owner.* For the purpose of this chapter, an owner is the deedholder, titleholder, or purchaser by contract with the most immediate control of and responsibility for the management and operation of the property.

*Parking space* means a paved surface, at least eight feet by 16 feet in size, which is accessible and can be used at all times for parking a motor vehicle. Except as otherwise provided in this chapter, parking spaces shall be defined exclusive of driveways, fire and sanitary lanes,

and commercial loading space.

*Primary caregiver* means a person who is registered under the Michigan Medical Marihuana Act and is defined as a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.

*Primary caregiver operation* means either of the following: (1) a building, structure or lot from which a primary caregiver transfers, delivers, or provides marihuana to his or her qualifying patients; or (2) a building, structure or lot where a primary caregiver grows and/or stores medical marihuana that is not the primary caregiver's primary residence.

*Public utility* means any person, firm, corporation, municipal department, or board duly authorized to furnish, or furnishing under regulation, to the public electricity, gas, steam, communication (but excluding wireless communication facilities), transportation, drainage, or water.

*Qualifying patient* means a person who has been diagnosed by a physician as having a debilitating medical condition for purposes of the Michigan Medical Marihuana Act.

*Repairs* means the rebuilding or renewal of a part of an existing building for the purpose of maintaining its original type and classification.

*Restaurant* means all public places where food is cooked, prepared, provided, or served for human consumption. In the case where premises are licensed for the sale of alcoholic beverages, such establishments shall be deemed to be a "restaurant" within the meaning of chapter 18 of the City Charter and this chapter only if the establishment is continually operated according to the following requirements and performance standards:

- (1) There shall at all times be maintained and provided culinary facilities to cook or prepare food, and tables and seating areas to accommodate dining on the premises by not fewer than 50 patrons at any time.
- (2) The proprietor shall make available a varied menu of food items consisting of not less than ten such food items cooked or prepared on the premises.
- (3) Not more than 50 percent of the gross floor area open to the general public shall be used for purposes other than seating for diners, consisting of tables, chairs, booths, and necessary aisleways. Public restroom facilities shall not be considered in this determination.
- (4) During any 90-day period, no more than 50 percent of the gross revenues of the establishment shall be derived from the sale of alcoholic beverages. Admission charges or cover charges which exceed ten percent of the establishment's gross revenues shall be considered as derived from the sale of alcoholic beverages for purposes of determining the percentage of sales of alcoholic beverages. Sales of



food or alcoholic beverages to hotel or motel guests for consumption within their private rooms shall not be considered in determining the percentage ratio of sales to alcoholic beverages.

*Registered qualifying patient* means a person who has been diagnosed by a physician as having a debilitating medical condition and who has received a registry identification card.

*Registry identification card* means a document issued by the department of community health that identifies a person as a registered qualifying patient or registered primary caregiver.

*Roomer* means any person who engages a sleeping room in a roominghouse or other dwelling for which a consideration is given.

**Sec. 50-94. Standards for review.**

(a) *All uses.* Except as may be provided elsewhere in this section or chapter, each special use permit application shall meet each of the following standards:

- (1) The proposed use shall be consistent with the purpose of the use district in which it is located and the purpose and provisions of this division.
- (2) The site plan for the property shall be approved in accordance with the provisions of section 50-36 of this chapter.
- (3) The proposed size, height, architectural character and placement of new or expanded structures on the site shall be reasonably compatible with the existing or anticipated buildings on adjacent properties.
- (4) Streets and access facilities serving the site shall be able to safely accommodate the expected traffic generated by the proposed use; the use shall not cause excessive traffic congestion or delays, obstruct access to adjacent properties, or imperil the safety of motorists, pedestrians or bicyclists.
- (5) The proposed use shall not adversely affect the use and enjoyment of adjacent properties by generating excessive noise, vibration, light, glare, odors or any other form of pollution or nuisances.
- (6) The proposed use shall not materially diminish the economic value of adjacent properties or the city as a whole.
- (7) The proposed use shall not materially diminish the privacy, safety, security or enjoyment of any residential dwelling or residential neighborhood within the vicinity of the site.
- (8) The proposed use shall be located with direct access to and frontage on a major street as designated in the major street plan, or within an area designated for

adaptive reuse in the city center element of the comprehensive plan.

(b) *Specific uses.* In addition to the standards above, to address their unique characteristics, certain uses shall also meet the applicable standards below.

(1) *Churches.*

- a. Standards set forth in items (3) and (8) of subsection (a) above do not apply to churches.
- b. The minimum yard requirements of the use district in which the church is to be located shall apply except that in no event shall the yard requirement be less than 0.5 feet of yard to each foot of building height (excluding steeples) as applied to rear yard or side yard depth.

(2) *Businesses selling alcoholic beverages.* The following additional standards shall apply to restaurants and businesses licensed or to be licensed for the sale of alcoholic beverages or alcoholic liquor for consumption on or off the premises.

- a. The establishment shall not be located in such proximity to churches, elementary, or secondary schools, child development centers, or community centers so as to annoy, injure, offend, disrupt, disturb, or interfere with the activities conducted thereon or the persons conducting, attending, or traveling to or from such premises.
- b. The establishment shall not cause or continue an undue concentration of similar uses in the neighborhood such that liquor establishments and trade become a dominant influence or feature of the district or neighborhood.
- c. The establishment shall be designed, operated, and maintained at all times consistent with responsible business practices and so that no excessive demands shall be placed upon public safety services, nor any excessive risk of harm to the public health, safety, or sanitation, interference with vehicular or pedestrian traffic or parking, or the continuance or maintenance of any unlawful conduct, 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 unlawful conduct that is observed from the premises. The requirements of this section shall be a written condition of each special use permit issued to a restaurant.
- d. Restaurants selling alcoholic beverages shall provide to the city manager reports and business records, in the form and manner required by an administrative order to be published by the city manager and approved by the city council, to permit the city to review and determine continued

compliance with the requirement and performance standards of the definition of "restaurant" in section 50-8 and chapter 18 of the City Charter.

1. The requirements and performance standards of the definition of "restaurant" in section 50-8 and the reporting requirements of this subsection shall be a written condition of all special use permits issued to restaurants licensed to sell alcoholic beverages, provided however, that in the case of establishments which do not comply with the performance standards of subsection (4) of the definition of "restaurant" in section 50-8 at the time such establishment first becomes subject to the requirement of a special use permit, the special use permit issued for such establishment shall include a condition that the establishment demonstrate on an annual basis progress toward meeting such performance standards. Progress shall be measured by examining the ratio of alcoholic beverage sales to food sales during the most recent completed calendar year as compared to the ratio for the preceding year.
2. Proprietary information. Trade secrets or commercial or financial information received by the city manager pursuant to this section shall be exempt from disclosure to the public as a public record and shall not be published pursuant to the provisions of MCL 15.243 if the proprietor requests that the records be confidential, except that such records shall be admissible before all courts and administrative tribunals in proceedings brought for the purpose of enforcing this chapter.

(3) *Fraternities and sororities.*

- a. The standard set forth in item (8) of subsection (a) above does not apply to fraternities and sororities.
- b. In addition to the parking requirements for such uses specified in section 50-812, fraternities and sororities shall provide and maintain a parking access and management arrangement sufficient to serve the parking and access demands associated with chapter meetings, formal and informal social activities, or other on-site events which include the attendance of persons other than those who reside on the property. Such parking and access arrangements may include, but are not limited to, the provision of additional on-site parking, the use of private off-premises parking, the use of public parking in municipal lots or on-street spaces, and the availability of bus or shuttle service or carpooling arrangements.

(4) *Multiple-family dwellings in business districts.* Where multiple-family dwelling units are provided in conjunction with business uses on a property in a business

district, the following additional standards shall apply.

- a. Except where multiple-family dwelling units may be permitted as the sole principal use of a building to provide unique housing opportunities which are not otherwise available in the city center, at a minimum, the first floor of any building shall primarily be used for principal permitted business uses, and the number of multiple-family dwelling units and the permitted occupancy of the units shall be limited to maintain a reasonable balance between the business and residential uses on the property consistent with the purpose of each business district.
- b. The number of multiple-family dwelling units, the permitted occupancy of the units and the height and size of structures containing such units shall be limited to be compatible with adjacent development patterns and any nearby residential districts.
- c. Reasonable amounts of yard areas and open space shall be provided where necessary to be consistent with surrounding use and development patterns and to provide for the privacy and enjoyment of the residents.
- d. The design, type and operational characteristics of the business and residential uses on the property shall be compatible with one another.
- e. The residential units shall be designed and marketed to diversify housing opportunities in the neighborhood and shall not increase existing high concentrations of similar housing units in the neighborhood.

(5) *Additional building height.*

- a. Where a special use permit is required to permit building height above the base level permitted in any use district, the compatibility of the building shall be determined in part by the extent to which the use of the building and the building design, its setbacks and its orientation on the site successfully mitigate negative impacts upon neighboring uses, the natural features of the site and public facilities and services. Such buildings may be approved only if they comply with subsection (a) of this section and all of the following additional standards:
  1. The building shall not be located in such proximity to a single-family or two-family neighborhood so as to cause excessive noise or shadowing impacts, or substantial reductions in personal privacy or property values. The planning and zoning administrator may require the applicant to submit a solar angle diagram and shadow analysis prepared by a registered architect or engineer showing the extent of shadowing caused by the proposed building on adjacent properties and structures.

2. The portion of the building extending above the base level permitted in each use district shall be located no closer to the property line of a residentially zoned property than a distance equal to the amount of the height in excess of the base level.
  3. The building shall not result in traffic generation which exceeds the carrying capacity of adjacent streets, exceeds the parking capacity of on-site spaces or nearby municipal parking facilities, causes excessive congestion or risks to public safety, or causes or substantially contributes to excessive volumes of traffic through residential neighborhoods.
  4. The building shall not generate demands which exceed the capacity of public utilities and services necessary to serve the site.
- b. In addition, the city council may further increase the maximum permitted building height to the extent and for that area in the B-3 district as specified in section 50-593(f) for a building deemed to be of significant public benefit. The city council shall find, upon an affirmative vote of three-fourths of all members of the city council, that such buildings meet subsections (5)a.1. through 4., of this subsection and all of the following standards:
1. The building, through its proposed use, shall contribute substantially to the mix of desirable commercial, residential, social, cultural or employment opportunities or public amenities or open space available in the business district to achieve one or more public goals or objectives, as specified in the comprehensive plan or other strategic plan of the city, to benefit the business district, the adjacent residential or public areas, and the city as a whole.
  2. The applicant demonstrates that additional building height is necessary in order to make the proposed development economically feasible for the intended use and no reasonable alternative to additional height exists.
  3. The additional building height will cause no significant additional negative impact on adjacent properties, public streets and parking facilities, or public utility and services.
- (6) *Dispensaries and primary caregiver operations.* The following additional standards shall apply to dispensaries and primary caregiver operations:
- a. They shall comply at all times and in all circumstances with the Medical Marihuana Act and the General Rules of the Michigan Department of

Community Health and/or the Department of Licensing and Regulatory Affairs.

- b. They must be located outside of a one thousand (1,000) foot radius from 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.
- c. No more than 5 primary caregivers may operate from a dispensary.
- d. All medical marihuana shall be contained within an enclosed, locked facility, inaccessible on all sides and equipped with locks that permit access only by the registered caregivers, as reviewed and approved by the building official and the police department.
- e. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure which contains electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana.
- f. Any portion of the structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the fire department to insure compliance with the Michigan Fire Protection Code.
- g. They shall not be operated from a business which sells alcoholic beverages.
- h. The establishment shall not be located in such proximity to churches or community centers so as to annoy, injure, offend, disrupt, disturb, or interfere with the activities conducted thereon or the persons conducting, attending, or traveling to or from such premises.
- i. The establishment shall not cause or continue an undue concentration of similar uses in the neighborhood such that dispensaries and medical marihuana paraphernalia trade become a dominant influence or feature of the district or neighborhood and no caregiver operation or dispensary shall be located within 500 feet of another caregiver operation or dispensary.
- j. The establishment shall be designed, operated, and maintained at all times consistent with responsible business practices and so that no excessive demands shall be placed upon public safety services, nor any excessive risk of harm to the public health, safety, or sanitation, interference with vehicular or pedestrian traffic or parking, or the continuance or maintenance of any unlawful conduct, 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 unlawful conduct that is observed from the premises. The requirements of this section shall be a written condition of each special use permit issued to a dispensary or caregiver operation.

- k. No drive-through facilities shall be permitted.
- l. They may not be operated out of a residence or residential structure.
- m. All transfers and deliveries of medical marihuana to qualifying patients must occur within the structure out of public view or inside the patient's residence.
- n. The consumption of medical marihuana on the premises is prohibited.

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

Dispensaries and primary caregiver operations 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.
- (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.

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Victor W. Loomis, Jr.  
Mayor

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Nicole Evans  
Clerk