

Sec. 61-3-347 | Reserved.

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DIVISION 12. MEDICAL MARIHUANA CAREGIVER CENTERS

Sec. 61-3-351. Purpose; in general.

- (a) The purpose of this Division is to establish standards and procedures for the review and approval of the City of Detroit in permitting the land use category of medical marihuana caregiver centers and to prevent an over concentration of like uses to allow for the diversification of commercial and retail offerings along major and secondary corridors in order to:
- (1) Serve and protect the health, safety and welfare of the general public through reasonable limitations on land use as it relates to traffic, noise, light, air and water quality, neighborhood and patient safety, security, and other health and safety concerns;
 - (2) Regulate land used in the operation of activities authorized by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, *et seq.*;
 - (3) Establish land use restrictions that are fair and equitable for those interested in establishing medical marihuana caregiver centers while protecting adjacent properties from potential adverse effects;
 - (4) Provide reasonable regulation of land use pursuant to the city's general police power granted to cities by the Michigan Constitution of 1963 and the Home Rule City Act, MCL 117.1 *et seq.*, as amended and the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*, as amended;

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- (b) Nothing in this division, or in any companion regulatory provisions adopted in any other section of this Code is intended to prohibit, nor shall it be construed as prohibiting access to health care or medical marihuana by registered medical marihuana patients;
- (c) Nothing in this division, or in any companion regulatory provisions adopted in any other provision of this Code, is intended to grant, nor shall it be construed as granting immunity from criminal prosecution for:
 - (1) Cultivation, sale, consumption, use, distribution, manufacture or possession of marihuana in any form not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, *et seq.*; or
 - (2) Any criminal prosecution under federal laws including seizure of property under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 *et seq.*

(Ord. No. 31-15, §1, 3-01-2016)

Sec. 61-3-352. Medical Marihuana Caregiver Centers subject to this division.

This Division applies to all medical marihuana caregiver centers as defined in Sec. 61-16-132 of this Code.

(Ord. No. 31-15, §1, 3-01-2016)

Sec. 61-3-353. Definitions; meaning of terms.

Cultivation or *cultivate* means (i) all phases of growth of marihuana from seed to harvest; or (ii) preparing, packaging or repackaging, labeling, or relabeling of any form of marihuana.

Drug free zone, as established in Sec. 38-11-42 of this Code and as defined for this Chapter, means an area that is within one thousand (1,000) radial feet of the zoning lot of a(n):

- 1. arcade, as defined in Sec. 61-16-33 of this Code;

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2. child care center, as defined in Sec. 61-16-52 of this Code;
3. educational institution, as defined in Sec. 61-16-71 of this Code ;
4. library, as defined in Sec. 61-16-123 of this Code;
5. outdoor recreation facility, as defined in Sec. 61-16-144 of this Code and identified in the City of Detroit Recreation Master Plan;
6. school, as defined in Sec. 61-16-171 of this Code;
7. youth activity center as defined in Sec. 61-16-212 of this Code;
8. public housing as defined in 42 USC 1437a(b)(1).

Medical marihuana means any marihuana intended for medical use that meets all requirements for medical marihuana contained in this Chapter, the Michigan Medical Marihuana Act, and any other applicable law. This shall not include butane hash oil or marihuana in any form inconsistent with the definition of usable marihuana under the Act.

Medical marihuana caregiver center means a medical marihuana business operated by a registered primary caregiver that distributes medical marihuana, in a manner authorized by the Act, to registered qualifying patients as defined by the Act, or performs other activities pertaining to medical marihuana authorized by the Act.

Michigan Medical Marihuana Act or “*the Act*” means Initiated Law 1 of 2008, MCL 333.26421, *et seq.*

(Ord. No. 31-15, §1, 3-01-2016)

Sec. 61-3-354. Conditional Uses; Procedures; Waivers; Public Nuisance.

- (a) Medical marihuana caregiver centers are permitted on a conditional basis in the B2, B4, M1, M2, M3, and M4 zoning districts, subject to the provisions of this division, the

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conditional land use requirements of this Article, and the use regulations of Sec. 61-12-343 of this Code.

(b) The Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center:

(1) where located in a drug-free zone, as defined in Sec. 61-3-353 of this Code, or where located within a Gateway Radial Thoroughfare overlay area or Traditional Main Street overlay area (as provided in Article XI, Division 14 of this Chapter); and

(2) where located on a zoning lot in a B2, B4, M1, M2, M3, or M4 zoning district less than:

(A) One thousand (1,000) radial feet from any zoning lot occupied by any religious institution identified as exempt by the City Assessor; and

(B) One thousand (1,000) radial feet from any zoning lot occupied by another medical marihuana caregiver center; except that on land zoned M1, M2, M3, or M4 farther than one hundred-fifty (150) feet from land zoned residential or residential PD, the spacing requirement between medical marihuana caregiver centers shall not apply;

(C) One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade).

(c) The applicant shall submit such documentation as requested by the Buildings, Safety Engineering and Environmental Department in order for the department to determine consistency or non-consistency with the locational specifications of subsection (b) of this

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section. Determination of whether the permit application is complete shall be made in accordance with Sec. 61-3-5 of this Code.

- (d) The locational specifications related to drug-free zones of subsection (b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed.
- (e) The locational specifications of subsection (b)(2) of this section may be modified by the Buildings, Safety Engineering and Environmental Department, subject to the approval criteria of Sec. 61-4-81 of this Code to be considered at the conditional land use hearing, provided the modification does not diminish the spacing requirement by more than ten percent (10%). Requests for modification of the locational specifications of subsection (b)(2) of this section that are denied by the Buildings, Safety Engineering and Environmental Department or that will diminish the spacing requirement by more than ten percent (10%) may be approved by the Board of Zoning Appeals in accordance with Sec. 61-4-89 and Sec. 61-3-219 of this Code.
- (f) The Buildings, Safety Engineering and Environmental Department shall schedule the conditional land use hearing required by this Article within thirty (30) days of site plan approval.
- (g) Medical marijuana caregiver centers are not permitted as accessory uses, nor may they include accessory uses.
- (h) Any premises, building, or other structure in which a medical marijuana caregiver center is regularly operated or maintained in violation of the standards included and

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incorporated in this Code shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the City of Detroit in a court of competent jurisdiction, in addition to the penalties authorized by this Chapter. Any premises, building, or other structure declared by the court to be a public nuisance shall be closed and the property owner assessed the costs of abatement. Each day that a violation is permitted to exist or occur on the premises shall constitute a separate occurrence or maintenance of the violation.

(Ord. No. 31-15, §1, 3-01-2016)