

UNIFIED DEVELOPMENT CODE
(MARIJUANA LICENSES, TREES IN RIGHT-OF-WAY, LANDSCAPE
MODIFICATIONS)

AN ORDINANCE TO AMEND SECTIONS 5.16.3.G, 5.20.10 AND 5.30.1 OF CHAPTER 55 (UNIFIED DEVELOPMENT CODE) OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 5.16.3.G of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows:

G. Marijuana Facilities

1. Intent

- a. It is the intent of this section to provide appropriate locations and reasonable restrictions for Marijuana Facilities allowed by the Medical Marijuana Facilities Licensing Act, MCL 333.27101 *et seq.* and the Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951 *et seq.* These are unique land uses with ramifications not addressed by more traditional zoning district regulations.
- b. It is the intent of this section to provide appropriate locations and reasonable restrictions for the cultivation and transfer of Marijuana allowed by the Michigan Medical Marijuana Act, MCL 333.26421 *et seq.* and the Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951 *et seq.* These are unique land uses with ramifications not addressed by more traditional zoning district and Home Occupation regulations.
- c. It is the intent of this section to protect the health, safety, and general welfare of Persons and property by limiting land uses related to Marijuana to districts that are compatible with such uses. Additional regulations in this section are intended to provide reasonable restrictions within districts so that these uses do not compromise the health, safety, and general welfare of Persons in the district, or other uses allowed in each district.

2. Words and Phrases

Words and phrases contained in the Michigan Medical Marijuana Facilities Licensing Act (“MMFLA”), MCL 333.2701 *et seq.*, the Michigan Medical Marijuana Act (“MMMA”), MCL 333.26421 *et seq.*, or the Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951 *et seq.* (“MRTMA”), shall have the same meanings in this Code, as applicable. Article VIII of this chapter contains some words and phrases that are defined in the MMFLA, the MMMA, or the MRTMA, but if any definition in Article VIII conflicts with the definition

in the MMFLA, MMMA, or MRTMA, then the definition in the applicable state act shall apply.

3. All Marijuana Facilities

- a. No approvals under this chapter shall be granted for any Marijuana Facilities in excess of any limits on permits for facilities in the City established by Chapter 96 of the City Code or other actions of the City.
- b. No Person shall reside in or permit any Person to reside in a Marijuana Facility, except as allowed in the M1 and M2 zoning districts.
- c. No smoking, inhalation, or consumption of Marijuana shall take place on the Premises of any Marijuana Facility.
 - a. Exception: A Designated Marijuana Consumption Facility may permit smoking, inhalation, or consumption of Marijuana on the premises.
- d. All activities of a Marijuana Facility shall be conducted indoors.
Exception: Curbside pickup may be provided for any Marijuana Provisioning Center, Marijuana Retailer, or Marijuana Microbusiness.
- e. No equipment or process shall be used in any Marijuana Facility which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the Premises.

~~3. Additional Marijuana Facility Location Restrictions~~

- a. ~~A Marijuana Retailer is a permitted use at a location where a Medical Marijuana Provisioning Center Special Exception Use Permit has been approved, with or without the continued Medical Marijuana Provisioning Center use. Any operation of the Medical Marijuana Provisioning Center, a Marijuana Retailer, or combination of the two, shall comply with all conditions of the Special Exception Use approval for the Lot.~~
- b. ~~A Medical Marijuana Provisioning Center or Marijuana Retailer may only be located within a PUD in compliance with the standards in this Section 5.16.3G and where retail use is permitted in the PUD Supplemental Regulations.~~
- c. ~~No Lot containing a Medical Marijuana Provisioning Center, Marijuana Microbusiness, or Marijuana Retailer shall be located within 600 feet of any Lot on which either a Medical Marijuana Provisioning Center, Marijuana Microbusiness, or Marijuana Retailer is located.~~
- d. ~~Number of State Marijuana Licenses per Lot~~

TABLE 5.16-1: STATE MARIJUANA LICENSES PER LOT	
ZONING DISTRICT	MAXIMUM NUMBER [A]
M1, M1A, M2	5

~~TABLE 5.16-1: STATE MARIJUANA LICENSES PER LOT~~

ZONING DISTRICT	MAXIMUM NUMBER [A]
RE, ORL	2
All Other Districts	1

~~Notes:~~
~~[A] A Medical Marijuana Provisioning Center and Marijuana Retailer under common ownership and operating at the same location shall be considered as one State Marijuana License, and a Marijuana Retailer and a Designated Marijuana Consumption Facility under common ownership and operating at the same location shall also be considered as one State License.~~

- ~~e. No more than one type of the following uses shall be located on a Lot:~~
- ~~▪ Marijuana Grower~~
 - ~~▪ Marijuana Processor~~
 - ~~▪ Marijuana Infused Product Processor~~
 - ~~▪ Marijuana Secure Transporter~~
 - ~~▪ Medical Marijuana Provisioning Center~~
 - ~~▪ Marijuana Retailer~~
 - ~~▪ Designated Marijuana Consumption Facility~~
 - ~~▪ Marijuana Microbusiness~~
 - ~~▪ Marijuana Safety Compliance Facility, except for a Medical Marijuana Provisioning Center and Marijuana Retailer under common ownership~~
 - ~~▪ Marijuana Retailer and a Designated Marijuana Consumption Facility under common ownership~~
- ~~f. No Lot containing a Medical Marijuana Provisioning Center, Marijuana Retailer, Marijuana Grower, Marijuana Microbusiness, Designated Marijuana Consumption Facility, Marijuana Processor, or Marijuana Infused Product Processor shall be located within 1,000 feet of a Lot on which a pre-existing Public School or Private School, but excluding dance or art schools, is located.~~
- ~~g. No approvals under this chapter shall be granted for any Marijuana Facilities in excess of any limits on permits for facilities in the City established by Chapter 96 of the City Code or other actions of the City.~~

4. Any Marijuana Facility Special Exception Use

In addition to the requirements in Section 5.29.5, the following information shall be provided to the Planning Commission for consideration of an application for Special

Exception Use. Additional information from what is listed below may be requested by staff or the Planning Commission.

- a. A description of how deliveries are handled, methods of storage, a business floor plan, or other pertinent information.
- a. A detailed safety and security plan that addresses Marijuana, customers, employees, and neighboring residents, offices, or businesses.
- b. A description of methods to be used to contain all odors within the Building.
- c. A waste disposal plan specific to Marijuana, Marijuana Plant waste, and Marijuana-Infused Products.
- d. Days and hours of operation.

~~4. Standards for Medical Marijuana Home Occupations~~

~~Cultivation or other Medical Use of Marijuana as a Medical Marijuana Home Occupation in Single Family Dwellings.~~

- a. ~~Medical Marijuana Home Occupations are not permitted in Two-Family or other Multiple-Family Dwellings.~~
- b. ~~In a Single-Family Dwelling in any zoning district, no more than 72 Marijuana Plants shall be grown on the Premises, regardless of the number of registered Primary Caregivers and/or registered Qualifying Patients residing in the dwelling. The Principal Use of the Single-Family Dwelling shall be a Residential Occupancy and shall be in actual use as such.~~
- c. ~~All other performance standards for Home Occupations as provided in Section 5.16.6H shall be required.~~
- d. ~~A zoning permit shall be required, consistent with Section 5.29.1.~~

5. Marijuana Provisioning Centers/Marijuana Retailers

- a. A Marijuana Retailer is a permitted use at a location where a Medical Marijuana Provisioning Center Special Exception Use Permit has been approved, with or without the continued Medical Marijuana Provisioning Center use. Any operation of the Medical Marijuana Provisioning Center, a Marijuana Retailer, or combination of the two, shall comply with all conditions of the Special Exception Use approval for the Lot.
- b. A Lot containing a Medical Marijuana Provisioning Center and/or a Marijuana Retailer shall be located at least 600 feet from any Lot on which either a Medical Marijuana Provisioning Center, Marijuana Microbusiness, or Marijuana Retailer is located.
- c. A Lot containing a Medical Marijuana Provisioning Center and/or a Marijuana Retailer shall be located at least 1,000 feet of a Lot on which a pre-existing Public School or Private School, but excluding dance or art schools, is located.

- a. A Medical Marijuana Provisioning Center or Marijuana Retailer may only be located within a PUD in compliance with the standards in this Section 5.1.1G and where retail use is permitted in the PUD Supplemental Regulations.
- b. An application for a Medical Marijuana Provisioning Center and/or a Marijuana Retailer in the M1, M1A, or M2 zoning district may only be approved if the Medical Marijuana Provisioning Center and/or Marijuana Retailer is incidental to the Principal Activity or Principal Use and the Floor Area devoted to the Medical Marijuana Provisioning Center and/or Marijuana Retailer does not exceed 10% of the Floor Area of the Principal Marijuana Facility.

~~5. Standards for Medical Marijuana Use or Cultivation~~

~~When the cultivation or other Medical Use of Marijuana in Dwelling Units is not a Medical Marijuana Home Occupation, it shall comply with the following standards:~~

- a. ~~The Principal Use of the Dwelling Unit shall be Residential Occupancy and shall be in actual use as such.~~
- b. ~~No more than 12 plants for each registered Qualifying Patient who resides in the Dwelling Unit shall be grown.~~
- c. ~~No Equipment or process shall be used in cultivation which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property boundary.~~
- d.c. ~~All aspects of the Medical Use of Marijuana shall comply at all times with the provisions of the MMMA.~~

6. Marijuana Growers

- a. A Lot containing a Marijuana Grower shall be located at least 1,000 feet from any Lot on which a pre-existing Public School or Private School, but excluding dance or art schools, is located.
- b. Applications shall also include a description of the expected volume of water to be used.
- c. Applications shall also include a description of volume, on-site treatment, and any permits required for wastewater for the maximum number of plants allowed in that Marijuana Facility.
- d. Applications shall also include a description and plan of the energy needs, along with any necessary planned improvements, that a minimum of 10% of the Marijuana Facility's energy usage will be provide via solar panels on the site.
- e. Annual reporting requirement: A written report or documentation of the energy used, water used, and sanitary sewer discharge from the Marijuana Facility, submitted to the City Clerk.

~~6. Marijuana Facility Regulations~~

- a. ~~No Person shall reside in or permit any Person to reside in a Marijuana Facility, except as allowed in the M1 and M2 zoning districts.~~
- b. ~~No smoking, inhalation, or consumption of Marijuana shall take place on the Premises of any Marijuana Facility.~~
- i) ~~**Exception**~~
 - ~~A Designated Marijuana Consumption Facility may permit smoking, inhalation, or consumption of Marijuana on the premises.~~
- e. ~~All activities of a Marijuana Facility shall be conducted indoors.~~
- d. ~~No equipment or process shall be used in any Marijuana Facility which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the Premises.~~

7. Marijuana Microbusiness

- a. A Lot containing a Marijuana Microbusiness shall be located at least 600 feet from any Lot containing a Provisioning Center/Retailer, or Marijuana Microbusiness.
- b. A Lot containing a Marijuana Microbusiness shall be located least 1,000 feet from any Lot on which a pre-existing Public School or Private School, but excluding dance or art schools, is located.
- c. Applications shall also include a description of the expected volume of water to be used.
- d. Applications shall also include description of volume, on-site treatment, and any permits required for wastewater for the maximum number of plants allowed in that Marijuana Facility.
- e. Applications shall also include a description and plan of the energy needs, along with any necessary planned improvements, that a minimum of 10% of the Marijuana Facility's energy usage will be provide via solar panels on the site.
- f. Annual reporting requirement: A written report or documentation of the energy used, water used, and sanitary sewer discharge from the Marijuana Facility, submitted to the City Clerk.

~~7. Required Statements for Marijuana Growers or Marijuana Microbusinesses~~

- a. ~~With application: A description of the expected volume of water to be used.~~
- b. ~~With application: A description of volume, on-site treatment, and any permits required for wastewater for the maximum number of plants allowed in that Marijuana Facility.~~

- e. ~~With applications: A description and plan of the energy needs, along with any necessary planned improvements, that a minimum of 10% of the Marijuana Facility's energy usage will be provide via solar panels on the site.~~
- d.g. ~~Annual reporting: A written report or documentation of the energy used, water used, and sanitary sewer discharge from the Marijuana Facility, submitted to the City Clerk.~~

8. Designated Marijuana Consumption Facility

- a. A Lot containing a Designated Marijuana Consumption Facility shall be located at least 1,000 feet from any Lot on which a pre-existing Public School or Private School, but excluding dance or art schools, is located.

~~8. Special Exception Use Regulations for Marijuana Facilities~~

- a. ~~In addition to the requirements in Section 5.29.5, the following information shall be provided to the Planning Commission for consideration of an application for Special Exception use. Additional information may be requested by staff or the Planning Commission.~~
- b. ~~Additional Information for Medical Marijuana Provisioning Centers, Marijuana Retailers, Marijuana Growers, Marijuana Microbusinesses, Marijuana Processors, and Marijuana-Infused Product Processors~~
 - i) ~~A description of how deliveries are handled, methods of storage, a business floor plan, or other pertinent information.~~
 - ii) ~~A detailed safety and security plan that addresses Marijuana, customers, employees, and neighboring residents, offices, or businesses.~~
 - iii) ~~A description of methods to be used to contain all odors within the Building.~~
 - iv) ~~A waste disposal plan specific to Marijuana, Marijuana Plant waste, and Marijuana-Infused Products.~~
 - v) ~~Days and hours of operation.~~
- c. ~~A Site Plan that meets the requirements of this chapter shall be provided. For sites that require City Council approval of a Site Plan, approval of the Special Exception use by the Planning Commission shall be contingent upon Site Plan approval by City Council.~~
- d. ~~An application for a Medical Marijuana Provisioning Center and/or a Marijuana Retailer in the M1, M1A, or M2 zoning district may only be approved if the Medical Marijuana Provisioning Center and/or Marijuana Retailer is incidental to the Principal Activity or Principal Use and the Floor Area~~

~~devoted to the Medical Marijuana Provisioning Center and/or Marijuana Retailer does not exceed 10% of the Floor Area of the Principal Marijuana Facility.~~

9. Medical Marijuana Home Occupations

Cultivation or other Medical Use of Marijuana as a Medical Marijuana Home Occupation in Single-Family Dwellings shall comply with the following standards:

- a. Medical Marijuana Home Occupations are not permitted in Two-Family or other Multiple-Family Dwellings.
- b. In a Single-Family Dwelling in any zoning district, no more than 72 Marijuana Plants shall be grown on the Premises, regardless of the number of registered Primary Caregivers and/or registered Qualifying Patients residing in the dwelling. The Principal Use of the Single-Family Dwelling shall be a Residential Occupancy and shall be in actual use as such.
- c. All other performance standards for Home Occupations as provided in Section 5.16.6.H shall be required.
- d. A zoning permit shall be required, consistent with Section 5.29.1.

10. Medical Marijuana Use or Cultivation

When the cultivation or other Medical Use of Marijuana in Dwelling Units is not a Medical Marijuana Home Occupation, it shall comply with the following standards:

- a. The Principal Use of the Dwelling Unit shall be Residential Occupancy and shall be in actual use as such.
- b. No more than 12 plants for each registered Qualifying Patient who resides in the Dwelling Unit shall be grown.
- c. No Equipment or process shall be used in cultivation which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property boundary.
- d. All aspects of the Medical Use of Marijuana shall comply at all times with the provisions of the MMMA.

Section 2. That Section 5.20.10 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor is amended as follows:

5.20.10 Trees in the Public Right-of-Way

A. Authority

The City Administrator shall have the sole authority over the planting, maintenance and removal of trees in the Street Right-of-Way and other City property. No Person without written permission of the City Administrator shall plant, remove, break, spray or take any action that will injure or destroy any tree or shrub, the base of which is located in the Street Right-of-Way or other City land.

H.B. ~~Street Trees Required With Site Plan Developments~~ Requirements

~~All site plans require one~~ One street tree ~~of the minimum size and species meeting City standards shall be provided~~ for every 45 linear feet of ~~existing and proposed~~ public Street Rights-of-Way, ~~minus the width of Curb Cuts,~~ abutting and within ~~a site plan Site~~ the Site. ~~Proposed street trees shall meet the City Standards for minimum size and species.~~ Existing trees meeting City standards may be used to satisfy all or part of this requirement. ~~A street tree escrow formula shall be established and administered by the Public Services Area for the purpose of planting trees on the public Street Right-of-Way abutting new Developments. Deposits into the street trees escrow shall be required prior to issuance of a building permit for the approved Development and shall be returned upon acceptance of the planted street trees.~~

Section 3. That Section 5.30.1 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows:

5.30.1 Landscape Modifications

~~Flexibility in the application of the landscaping or screening requireme~~ 5.20.3, 5.20.4, 5.20.5, 5.20.6, or 5.20.7 may be allowed as provided in this section.

A. Eligible Requirements Sections

The following sections providing landscaping and screening requirements may be modified as provided in this section:

1. Section 5.20.3 (Vehicular Use Area Landscaping and Screening)
2. Section 5.20.4 (Conflicting Land Use Buffers)
3. Section 5.20.5 (Private Streets and Shared Driveway Buffers)
4. Section 5.20.6 (Refuse/Recycling Container Screening)
5. Section 5.20.7 (Material and Design Standards)
6. Section 5.20.10 (Trees in the Public Right-of-Way)

B. Modification Conditions

The eligible landscaping and screening requirements may only be modified in one or more of the following conditions:

1. The Site is located in a special parking district as designated in Section 5.19.3
2. Strict application of this chapter will result in a loss of existing Parking Spaces required by Sections 5.19.2 or 5.19.3 and the Site does not abut residential uses.
3. The ~~topographic~~ topography or elevation features of the Site relative to adjacent Sites is such that the required landscaping and screening ~~create conditions so that the strict application of the provisions of this chapter will result in~~ result in less effective screening and landscaping than alternative landscape designs which achieve the same purpose.
4. Existing vegetation and landscaping are located or spaced in such a manner that the addition of required landscaping would be detrimental to the plant material or create undesirable conditions. ~~Planting or installing required landscaping and screening materials would be more detrimental to existing vegetation and would result in conditions less desirable or effective for landscaping and screening than if located and spaced as required.~~
5. The use of Bioretention areas, Native or Prairie Plantings, structural amenities or Xeriscaping would prevent strict application of this chapter. ~~The soil conditions underlying the required landscaping and screening area prevent strict application of the requirements because, for example, soils are contaminated, soils are unsuitable for infiltration, or there is a significantly sized and shallow depth public utility such as a main or enclosed culvert.~~
- In the case of planned projects or planned unit developments, a rearrangement of the landscaping elements will achieve the spirit and intent of this chapter.
6. Landscape elements which are a part of a previously approved site plan may be maintained and continued as nonconforming provided no Alterations of the existing landscape elements are proposed.
7. Planting a new street tree is prevented by an existing and unmovable obstruction, impediment, or public infrastructure such as, but not limited to, fire hydrants, overhead utility lines, poles, traffic control devices, transit shelters, barrier-free accessible routes.

C. Standards for Approval.

A landscape modification may be ~~allowed~~ approved by the approving body if each of the following conditions are met:

1. The modifications are consistent with the purposes stated in Section 5.20.1;

2. One or more of the conditions in Section 5.30.1(B) are met; and following Site:

- ~~a. The Site is located in a special parking district as designated in Section~~
~~Strict application of this chapter will result in a loss of existing Parking Spaces required by Sections 5.19.2 or 5.19.3 and the Site does not abut residential uses.~~
- ~~a. The topographic features of the Site create conditions so that the strict application of the provisions of this chapter will result in less effective screening and landscaping than alternative landscape designs.~~
- ~~a. Existing vegetation and landscaping are located or spaced in such a manner that the addition of required landscaping would be detrimental to the plant material or create undesirable conditions.~~
- ~~a. The use of Bioretention areas, Native or Prairie Plantings, structural amenities or Xeriscaping would prevent strict application of this chapter.~~
- ~~a. In the case of planned projects or planned unit developments, a rearrangement of the landscaping elements will achieve the spirit and intent of this chapter.~~
- ~~a. Landscape elements which are a part of a previously approved site plan may be maintained and continued as nonconforming provided no Alterations of the existing landscape elements are proposed.~~

3. The Applicant provides a statement of justification identifying which Site conditions warrant the requested modification and how the modification meets the intent of the ordinance as provided in this section.

Approval Procedures

modification shall be specifically approved by a motion by the Planning Commission or City Council, depending on which is the approving body upon finding that the standards of approval have been met.

~~A.—A modification may be allowed if each of the following conditions are met:~~

~~A.—The modifications are consistent with the purposes stated in Section 5.20.1~~

~~B.—The modifications are associated with one or more of the following Site conditions:~~

~~C.—The Site is located in a special parking district as designated in Section 5.19.3~~

~~D.—Strict application of this chapter will result in a loss of existing Parking Spaces required by Sections 5.19.2 or 5.19.3 and the Site does not abut residential uses:~~

~~E.—The topographic features of the Site create conditions so that the strict application of the provisions of this chapter will result in less effective screening and landscaping than alternative landscape designs.~~

~~F.—Existing vegetation and landscaping are located or spaced in such a manner that the addition of required landscaping would be detrimental to the plant material or create undesirable conditions.~~

~~G.—The use of Bioretention areas, Native or Prairie Plantings, structural amenities or Xeriscaping would prevent strict application of this chapter.~~

~~H.—In the case of planned projects or planned unit developments, a rearrangement of the landscaping elements will achieve the spirit and intent of this chapter.~~

~~I.—Landscape elements which are a part of a previously approved site plan may be maintained and continued as nonconforming provided no Alterations of the existing landscape elements are proposed.~~

~~J.—The Applicant provides a statement of justification identifying which Site conditions warrant the requested modification and how the modification meets the intent of the ordinance as provided in this section.~~

~~K.—Approval Procedures~~

~~The modifications shall be specifically approved by a motion by the Planning Commission or City Council, depending on which is the approving body.~~

Section 4. This ordinance shall take effect and be in force on and after ten days from legal publication.

As Amended and Approved at First Reading on July 18, 2022.