

PLANNING SERVICES STAFF REPORT

For Planning Commission Meeting of September 16, 2025

SUBJECT: Chapter Text Amendment – Marijuana Facility Regulations and Affordable Housing

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the following amendment to Chapter 55, Unified Development Code:

Section 5.16.3.F Specific Use Requirements – Marijuana Facilities be amended to remove school separation minimums and other modifications as attached.

and

The Ann Arbor City Planning Commission recommends removal of the 28 Marijuana Retailer facility cap specified in Chapter 95.

STAFF RECOMMENDATION:

Staff recommends that the amendment to the Unified Development Code to eliminate blanket separation requirements from marijuana facilities and schools in favor of case-by-case consideration.

SUMMARY:

On August 7, 2025, Ann Arbor City Council passed [Resolution R-25-307](#), which directs the Planning Commission to consider potential updates to the Unified Development Code approach to Marijuana facility regulation, including:

- Whether the 1,000-foot K-12 separation distance should be reduced citywide or in certain districts/locations.
- Whether a Special Exception Use permit is an appropriate designation for marijuana facilities.
- Whether other UDC provisions regarding marijuana growers and processors should be amended.
- Whether there should continue to be a cap of 28 retailers in the City.

The City Council has directed that a response be provided to them in six months (by January 7, 2026).

REPORT:

With the opportunity to dedicate time on the September 16, 2025 agenda and the six-month response directive, planning staff is bringing the proposed changes to the Planning Commission without prior review by the Ordinance Revision Committee.

Background –

Marijuana Facilities and Regulations – The UDC recognizes and regulates the following marijuana facilities:

UDC MARIJUANA FACILITIES, PERMISSIONS, SPECIFIC STANDARDS SUMMARY													
Marijuana Facility	Zoning Districts												Specific Standards (Notable)
	Rs	C1s	D1	D2	C2B	C3	TC1	RE	ORL	M1s	M2		
Designated Consumption Facility		SE	SE	SE	SE	SE	SE					600' from another, 1000' from K-12 school	
Grower								SE	SE	P	P	1000' from K-12 school, 10% energy from solar	
Infused Product Processor					SE	SE							
Microbusiness						SE		SE	SE	SE	SE	600' from another, 1000' from K-12 school, 10% energy from solar	
Safety Compliance Facility								P	P	P			
Secure Transporter					P	P				P			
Retailer/Provisioning Center		SE	SE	SE	SE	SE	SE			SE	SE	600' from another, 1000' from K-12 school, [limit 28]	
Home Occupation	A A	A	A	A	A	A	A					Single-family only, max 72 plants	
Use or Cultivation	A A	A	A	A	A	A	A					Max 12 plants	
<p>Key</p> <p>Rs – AG, R1A, R1B, R1C, R1D, R1E, R2A, R2B, R3, R4A, R4B, R4C, R4D, R4E, R6 districts</p> <p>C1s – C1, C1A, C1A/R, C1B districts</p> <p>M1s – M1, M1A districts</p> <p>SE – Special Exception Use</p> <p>P – Permitted Use</p> <p>A – Accessory Use</p> <p>Note – O, R5, P, PL districts omitted from table as no marijuana facilities are permitted</p>													

Should the 1,000-foot separation from K-12 Schools be reduced?

Public Act 281 of 2016 was enacted by the State of Michigan to create the Medical Marihuana Facilities Licensing Act. This act resulted in the expansion of the prior qualifying patient/caregiver framework, enabled since 2008. Public Act 281 provided numerous facility types including Medical Marijuana Provisioning Centers. These centers were defined as:

- **MCL 333.27102 (w)** *"Provisioning center" means 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 registered 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 is not a provisioning center for purposes of this act.*

Public Act 281 of 2016 established no locational restrictions on such facilities. In response to this act, the City adopted several ordinances to regulate such facilities, including [Ordinance 17-21](#) which added the state-enabled facilities as uses in the Zoning Ordinance. Specifically, Provisioning Centers were established with the restriction that they not be located within 1,000 feet of a parcel on which a public or private K-12 elementary or secondary school is located. For compliance with this provision, the City interpreted that to meet this requirement, multiple levels or grades must be present, in a building that was primarily used for elementary or secondary education (derived from the definition of private school in 2017). This resulted in the approval of several provisioning centers by both the City of Ann Arbor and State of Michigan that were within 1,000 feet of a childcare center, that was inclusive of a kindergarten classroom. These were part of 28 provisioning centers that were approved, beginning in February of 2018.

In November of 2018, Michigan voters approved Proposal 18-1, which legalized recreational marijuana and creates the Michigan Regulation and Taxation of Marihuana Act. This act expanded the type of marijuana-related businesses permitted under state law, including Marijuana retailers, which provided a mechanism for commercial sales of marijuana products without demonstrated medical need. This act established a new use, Marijuana Retailer:

- **MCL 333.27953 (q)** *"Marihuana retailer" means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.*

In addition to establishing Marijuana Retailers, a business for recreational marijuana sales, this act included two provisions that were considered by the City in considering new code language to accommodate these new businesses in the City:

- ***MCL 333.27959 3(c)*** *the property where the proposed marihuana establishment is to be located is not within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement;*
- ***MCL 333.27956 5*** *A municipality may not adopt an ordinance that restricts the transportation of marihuana through the municipality or prohibits a marijuana grower, a marihuana processor, and a marihuana retailer from operating within a single facility or from operating at a location shared with a marihuana facility operating pursuant to the Medical Marihuana Facilities Licensing Act.*

These provisions added 1,000 feet separation language to the first time to state law in a unique phrasing from the City's previously established ordinance (i.e. providing education in kindergarten. . .) while simultaneously prohibiting the City from restricting a marijuana retailer (i.e. recreational marijuana sales) from operating in a shared facility with a marijuana provisioning center (i.e. medical marijuana sales). In response to this, the City enacted changes to the Unified Development Code via [Ordinance 19-32](#) which broadened the definition of medical provisioning centers to be inclusive of recreational retailers. Facilities located at 415 S. Main and 338 S. Ashley received Ann Arbor and State of Michigan approvals previously for recreational sales. In 2025, the State of Michigan noted that it would not renew these retailer locations as they are in 1,000 feet of Doughty Montessori School, a school inclusive of pre-school and kindergarten aged children.

The attached changes would eliminate the local requirement of any minimum school separation distance for all marijuana facilities. The proposed amendment would simultaneously ask any future applicant to list the nearest two school uses, so that the Planning Commission could consider the appropriateness of the use, at a proposed location, subject to the Unified Development Code's Special Exception Use standards. Staff proposes this approach rather than any alternative that would be applicable only to specific zoning districts or locations, as any premise of separation as a need does not seem location-specific. For comparison, an attachment provides a summary of other ordinances, which include a range of school separation requirements of 300 feet, but primarily 1,000 feet.

Are Special Exception Use Permits Appropriate for Marijuana Uses?

Planning staff is unaware of any particular problems regarding the locations of Marijuana businesses. The application of special exception use permits to marijuana-related uses however does provide a mechanism for the City to consider locational factors, including modes of travel to and from a proposed business. While removing the

special exception use permit requirements from a use would facilitate the development review process for such uses, the incremental benefit to consider contextual aspects through the special exception use permit is a reasonable balance to retain. Planning staff makes no recommendation to modify this.

Should Other Modifications for Growers or Processors be considered?

The attached amendments propose the same removal of 1,000 foot separation from Marijuana Growers to school uses. Applying the change to all facility types provides a consistent approach.

Should There be a cap of 28 Retailers in the City?

While not identified in the Unified Development Code, the City Council has asked the Planning Commission for advice on the current cap of 28 Marijuana Retailers in the City. This cap means that no more than 28 Retailers can ever be licensed at a time. A cap was established originally in 2018 as part of the original accommodation of medical marijuana facilities. This cap was established in response to community concerns about marijuana-related businesses having an adverse effect on the community, through over-saturation, displacement of other desired businesses/uses, and some degree of uncertainty as to how the new market would evolve.

Planning Staff has included a proposed motion that would eliminate the 28-facility cap limit for provisioning center/retailers, Micro-businesses, and Designated Consumption Facilities. This is based on a few factors:

- Retaining the special exception use permit for some marijuana-related uses results in a permit that runs with the land, that over time may not result in being a successful location. By eliminating the cap, it would provide an opportunity for existing or new businesses to seek other, new locations. These locations may still be restricted by separation requirements from other facilities per the UDC but would provide a flexible avenue for the businesses to evolve.
- Currently, 21 of 28 provisioning center/retailer businesses are open, as the industry is going through some evolution. No designated consumption facilities are open, and one micro-business is open. Removing the cap may result in new businesses locating in the city, or others relocating, perhaps adding to the potential for a greater number of businesses to thrive. However, an existing special exception use permit at a property still counts toward the cap, even if that business is currently closed, until a multiple year period from closure expires.

Prepared by Brett Lenart

Attachments: Draft UDC Amendments – Marijuana Facilities
Other community ordinance summary