

**ORDINANCE NO. 1722**

An Ordinance amend Title V, Zoning and Planning, Chapter 45, Zoning, of the Code of the City of Southfield by amending Section 5.179 of Article 19 Light Industrial Districts to allow any Medical Marihuana Facility previously approved by City Council prior to October 13, 2019 be allowed to apply for a Special Land Use and Site Plan under Article 19, the Medical Marihuana Facilities and Licensing Act (MMFLA), Article 4 Section 5.22-7 Medical Marihuana Facilities, and other amendments that may become necessary as needed for the City of Southfield.

THE CITY OF SOUTHFIELD ORDAINS:

1. THE CODE OF THE CITY OF SOUTHFIELD IS HEREBY AMENDED BY ADDING SECTION 5.179(2) OF ARTICLE 19, LIGHT INDUSTRIAL (I-L), OF CHAPTER 45, ZONING, OF TITLE V, ZONING AND PLANNING, WHICH SHALL BE DESIGNATED AS FOLLOWS:

5.179 Uses Permitted Subject to Special Approval and Licensing (Amended – Ordinance 1637 – 4/5/15)

The following uses may be permitted upon the review and approval of the City Council after a recommendation from the Planning Commission. The use or uses shall only be approved when the following conditions have been satisfied and all licensing provisions in Chapter 86 have been met. This section promotes and protects the public health, safety and welfare and mitigates potential deleterious impacts to surrounding properties and persons and conforms with the policies and requirements of the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law 1 (MMMA), MCL 333.26421, et seq. (hereinafter “MMMA”), as amended. A use which purports to have engaged in the medical use of marihuana either prior to enactment of said Act, or after enactment of said Act but without being legally registered by the Department, shall be deemed to not be a legally established use, and therefore not entitled to legal non-conforming status under the provisions of City Ordinance and/or State Law. The fundamental intent of this section is to facilitate a private and confidential qualified patient and primary caregiver relationship whereby the cultivation, distribution and use of marihuana is strictly for medical purposes. Accordingly, this section permits authorization for activity in compliance with the MMMA. Nothing in this section shall be construed as allowing a person or persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the MMMA and this section; and, nothing in this section shall be construed to undermine or provide immunity from federal law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marihuana.

- (1) Uses

- (a) A Medical Marihuana Facility shall be subject to the following conditions:
- (1) Any parcel within 500 feet of a residentially zoned district or “drug-free school zone”; any parcel within 500 feet of a parcel that contains a house, adult regulated use, school, church, child care facility or park; and any parcel within 1,500 feet to any Pawn Shops or Alternative Financial Services establishment, shall not qualify for a Medical Marihuana Facility.
  - (2) A State of Michigan registry identification card and a valid license issued pursuant to Chapter 86 of the Southfield City Code is required for all Medical Marihuana Facilities operated by a primary caregiver. If the primary caregiver is not the owner of the premises, then consent must be obtained in writing from the property owner to ensure the owner’s knowledge of the use.
  - (3) Licenses issued pursuant to Chapter 86, in addition to any state issued license, permit or certification shall be conspicuously posted on the premises.
  - (4) Usable marihuana on site, when not actively distributed, shall be kept or stored within an indoor enclosed locked facility accessible only to caregivers and/or qualifying patients, as permitted under Article II, Definitions.
  - (5) Marihuana, if cultivated on site, shall be kept within an indoor enclosed locked facility as defined in Article II, Definitions, of this Chapter.
  - (6) Consumption of marihuana on the premises is prohibited.
  - (7) There shall be no outdoor, open use or display of marihuana upon the licensed premises.
  - (8) A Medical Marihuana Facility shall distribute marihuana for medical use only as authorized and in the manner permitted by the Michigan Medical Marihuana Act P.A. 2008, as amended.
  - (9) No more than five qualified patients per primary caregiver. The amount of usable marihuana stored at the Medical Marihuana Facility for each patient shall be limited to: 2.5 ounces of usable marihuana (excludes seeds, stalks, and roots) and 12 marihuana plants kept in an indoor enclosed locked facility as defined under the Michigan Medical Marihuana Act P.A. 2008, as amended and as noted by the licensing requirements of Chapter 86.
  - (10) The Medical Marihuana Facility shall be subject to periodic and unannounced inspections to ensure compliance with all applicable laws and regulations, including, but not limited to State law and City Ordinances.
  - (11) Hours of operations permitted: Monday-Friday: 9:00 A.M. - 9:00 P.M.; Saturday: 9:00 A.M. - 6:00 P.M.; Sunday: 10:00 A.M. - 6:00 P.M.
  - (12) Minimum Distance from one medical marihuana facility to another shall be 250 feet.
  - (13) Drive-thru facilities shall be prohibited.

- (14) Security and Lighting: A security and lighting plan shall be submitted for review and approval by the City Planning and Building Departments.
  - (15) A conspicuous sign(s) shall be posted stating that “No loitering is permitted” on such property.
  - (16) Entry into the premises by persons under the age of eighteen (18) is prohibited unless they are a qualifying patient and accompanied by a parent or legal guardian.
  - (17) The location from which a primary caregiver manufactures, stores and distributes medical marihuana to a qualifying patient shall not be used by another primary caregiver for any purpose whatsoever.
  - (18) Electrical, plumbing and all other inspections required by city ordinance, must be obtained and all necessary permits must be obtained confirming that all lights, plumbing, equipment and all other means proposed to be used to facilitate the growth or cultivation of marihuana plants is in conformance with all applicable codes; prior to the commencement of operation as a Medical Marihuana Facility.
  - (19) Caregiver activity shall not be advertised as, or permitted to operate as a “Medical Marihuana Provisioning Center”, “Safety Compliance facility”, “Dispensary,” “Compassion Club”, “clinic” or “hospital”. A qualified caregiver and any other person authorized under the MMMA to assist patients, if any, shall distribute medical marihuana only on a confidential, one to one basis, with no other caregivers being present at the approved facility, provided, however, that a qualified patient’s immediate family members or guardian may be present.
  - (20) Nothing in this Section shall permit or be construed or interpreted to permit a medical marihuana dispensary, provisioning center, safety compliance facility, or compassion club, and those or similar activities or uses are expressly prohibited hereunder.
- (b) Medical Marihuana Grower, Processor and Secure Transporter (see Article 4 Section 5.22-7 for requirements) (Amended – Ordinance 1709 – 10/3/19)
- (2) Any Medical Marihuana facility that received previous approval by the City Council under the Michigan Medical Marihuana act (MMMA) of 2008, as amended, and this section prior to October 13, 2019 will be able to apply for Special Use review and Site Plan review for a grow facility and processing facility under the Medical Marihuana Facilities and Licensing Act (MMFLA), Act 281 of 2016, this Section, and Article 4 Section 5.22-7 Medical Marihuana facilities.

2. Every person, firm, or corporation who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00) and cost of prosecution or by imprisonment for not more than ninety (90) days, or both such fine and imprisonment. The City, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate, or restrain the violation. Each day's continuance of a violation shall be deemed a separate and distinct offense. Any person violating the provisions of this Ordinance shall in addition become liable to the City for any expense or loss or damage occasioned by the City by reason of such violation.
3. Should any section, clause, or paragraph of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same will not affect the validity of the Ordinance as a whole or part thereof other than the part declared to be invalid.
4. All Ordinances in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.
5. This Ordinance shall become effective upon passage and publication.

KENSON J. SIVER, Mayor

SHERIKIA L. HAWKINS, City Clerk

PZTA20-0001

Introduced: 6/22/20

Enacted: 7/20/20

Published: 7/31/20

A COPY OF THIS ORDINANCE MAY BE PURCHASED OR INSPECTED AT THE SOUTHFIELD CITY CLERK'S OFFICE LOCATED AT 26000 EVERGREEN ROAD, MONDAY THROUGH FRIDAY, FROM 8:00 A.M. TO 5:00 P.M.