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**TO:** City Planning Commission

**FROM:** Eric Fazzini, Staff  
Roland Amarteifio, Staff  
Timarie Szwed, Staff

**RE:** Proposed text amendment to Chapter 50 of the 2019 Detroit City Code, Zoning (Zoning Ordinance), that would modify minimum spacing requirements and applicability for certain medical and adult-use marijuana facilities/establishments, add specific use standards for designated marijuana consumption establishments, and modify the temporary use prohibition for temporary marijuana events. **(PUBLIC HEARING)**

**DATE:** August 3, 2022

On August 4, 2022, the City Planning Commission will hold a 5:10 P.M. public hearing on the subject text amendment request. Please see the attached copy of the public hearing notice that provides a full summary of the proposed text amendment ordinance as published for this public hearing.

**BACKGROUND**

***Statewide Ballot Initiative***

In November 2008, Michigan voters passed a ballot initiative allowing the lawful sale and use of marijuana for medical purposes, referred to as the “Medical Marijuana Act Initiated Law 1 of 2008.” This ballot initiative had widespread support among voters with a 63% approval of Michigan voters statewide and a 75.6% approval of voters registered within the City of Detroit. Unfortunately, the passage of this ballot-initiated act resulted in the proliferation of unlicensed and unregulated medical marijuana dispensaries and facilities throughout the City of Detroit, largely due to the lack of statutory regulation and oversight in place at the time by the City of Detroit, Wayne County, and the state.

***Medical Marijuana Regulations***

In 2015, the Detroit City Council voted on the “Medical Marijuana Caregiver Center” ordinance (Ord. No. 31-15, effective March 1, 2016), which was enacted to amend the text of Chapter 61 of the 1984 Detroit City Code, Zoning, by defining “Medical Marijuana Caregiver Center” and creating regulations to stem the proliferation of, and otherwise regulate, such establishments in the city. At the time of enactment, approximately 214 unlicensed and unregulated medical marijuana facilities were established within the city.

In 2016, the Michigan Legislature enacted Public Acts 281, 282, and 283, which allowed for the licensure of five medical marijuana facility types, the production and sale of marijuana infused products, and the creation of a tracking system to monitor the products from “seed to sale.” This series of legislation is collectively referred to as the Medical Marijuana Facilities Licensing Act (MMFLA).

In November 2017, Detroit voters passed two initiatives, Proposals A and B, that replaced the medical marijuana ordinance approved by the City Council in March 2016 and which led to the closing of 167 of 283 medical marijuana facilities operating within the city at the time. Proposal A effectively required the City of Detroit to: opt in to the MMFLA, thus permitting the five medical marijuana facility types; eliminate all spacing requirements for dispensaries near parks, day cares, liquor stores, and arcades (later struck down by Court); and reduce the spacing requirement for churches and other medical marijuana facilities from 1,000 feet to 500 feet. Proposal B, which sought to regulate the facility types authorized by the MMFLA through local zoning regulations, was ultimately struck down by the 3<sup>rd</sup> Circuit Court as the Proposal was found to be in violation of the Michigan Zoning Enabling Act. Part of Proposal A, the elimination of all spacing requirements for dispensaries near parks, day cares, liquor stores, and arcades, was also struck down by the Court.

In February 2018, the City Council passed a 180-day moratorium on the acceptance of new medical marijuana facility applications for the purpose of allowing the City Planning Commission time to evaluate medical marijuana regulations that were provided to CPC. At the request of former CPC member Gregory Pawlowski, CPC staff convened two marijuana working group meetings to develop a regulatory scheme for medical marijuana. In May 2018, a revised draft Zoning Ordinance (ZO) text amendment was referred to City Council, which was enacted on October 14, 2018 (Ord. No. 20-18).

### ***Recreational Marijuana Regulations***

In November 2018 (10 years from approval of the first statewide marijuana ballot initiative), Michigan voters passed a ballot initiative (Proposal 1) allowing the lawful possession, cultivation, and consumption of marijuana for recreational purposes by adults at least 21 years of age. This ballot initiative is referred to as the “Michigan Regulation and Taxation of Marijuana Act” (MRTMA). This ballot initiative had narrow support statewide with a 56% approval of Michigan voters, and widespread support among City of Detroit voters at 69% approval.

After the passage of Proposal 1, the Office of Council Member James Tate convened a working group to develop an ordinance specific to social equity to ensure that Detroiters, Detroit being one of the communities identified by the state of Michigan as having been disproportionately impacted in terms of drug enforcement, benefit directly from the legalization of the adult-use cannabis industry. The product of the working group resulted in the first adult-use marijuana provisions of the Detroit Business Licensing Ordinance under Chapter 20 of the 2019 Detroit City Code, Health, Article VI – Medical Marijuana Facilities (Ord. No. 2020-44 effective January 11, 2021). In March 2021, a Zoning Ordinance text amendment was passed by City Council, effective April 2021 (Ord. No. 2021-9). This 2021 text amendment stands as the current set of marijuana regulations within the Zoning Ordinance.

On April 5, 2022, the City Council passed an amendment to Chapter 20, Health, Article VI of the City Code to establish the current set of combined medical marijuana and adult-use marijuana licensing regulations (Ord. No. 2022-11). However, there is ongoing litigation involving two marijuana companies. On July 29, 2022, a Wayne County Circuit Court judge granted a request for a temporary restraining order that prevents the city from opening applications, previously scheduled to begin on August 1, 2022, for retailers, microbusinesses, and designated consumption lounges. At this date, it is unclear what effect, if any, the ongoing litigation would have on the April 2022 Ordinance.

## **EQUITY PARTICIPATION – ORD. NO. 2022-11**

### ***Ordinance Purpose***

The combined marijuana regulations approved by the City Council were adopted with the following purpose statements related to equity as stated in Section 20-6-1 (6) through (10) of the Ordinance:

- Recognize that social equity in the marijuana industry is required to address the historical disproportionate impact of marijuana prohibition and enforcement on Detroiters and to positively impact the Detroit community, and that the City of Detroit has been expressly named by the State of Michigan's Social Equity Program as a community that has been disproportionately impacted by marijuana prohibition and enforcement.
- Recognize that residents of disproportionately impacted communities have historically been excluded from ownership opportunities in the legal marijuana industry due to the disproportionate impact of marijuana prohibition, enforcement, and the lack of access to capital, land, and resources.
- Recognize that residents of the City of Detroit are uniquely invested, personally and financially, in the success of the city's marijuana programs, that at least 20% of Detroiters live below the federal poverty level, and that Detroit has a marijuana-related criminal conviction rate that exceeds the average marijuana-related criminal conviction rate in the State of Michigan.
- Recognize that employment opportunities in the legal marijuana industry are essential for Detroiters, and to strongly encourage and incentivize licensees under this article to ensure that at least 50% of its employees are Detroit residents, specifically those Detroit residents who are low income, or have a prior controlled substance record, as such terms are defined in Section 20-6-2 of this Code, and that the jobs provided pay at least \$15 an hour.
- Facilitate real property ownership opportunities for Detroit residents, for the purpose of operating adult-use marijuana establishments licensed under this article and MRTMA; the City of Detroit shall use good faith efforts to transfer eligible City-owned real property to individuals who have obtained Detroit Legacy status as defined in Section 20-6-2 of this Code, the property's lowest justifiable fair value.

### ***License Required***

Division 3 of Ordinance No. 2022-11 provides the city's licensing requirements for medical marijuana facilities and adult-use establishments. General licensing requirements are as follows:

- Both a city license and a state operating license are required to legally operate any marijuana facility or establishment within the City of Detroit.
- A separate city license is required for each facility or establishment that requires a state operating license.
- A co-location license is required for any property owner that maintains more than one facility or establishment in one building when the property owner is not the license holder for all facilities or establishments located in the building.
- No more than one medical marijuana provisioning center and one marijuana retailer establishment may be licensed in any single building, unless approved by the City Council through a Planned Development.
- Numerical caps (maximums) on city licenses have been established as indicated in the below table. The city was scheduled to begin accepting license applications on August 1, 2022 for adult-use marijuana retailers, microbusinesses, and designated consumption establishments during the first 30-day application period established in accordance with the Ordinance (this is currently subject to a Wayne County Circuit Court judge temporary restraining order).

<b>Unlimited Licenses</b>
Grower
Processor
Secure Transporter
Safety Compliance
Temporary Marijuana Event Organizer
Temporary Marijuana Event

<b>Limited Licenses</b>	<b>Cap</b>
Medical Provisioning Center	75
Adult-Use Retailer Establishment	50
Adult-Use Retailer Est. – Equity	50
Designated Consumption Lounge	15
Designated Cons. Lounge – Equity	15
Microbusiness	15
Microbusiness – Equity	15

***Limited License Applications***

The following is a general description of the city process for awarding limited licenses:

- For limited license applications, documentation is required to establish an applicant’s status as an equity applicant, if applicable, or satisfaction of the social equity scoring criteria as a non-equity applicant.
  - Equity Applicant is defined as an individual whose primary residence is located within a disproportionately impacted community as defined by Ordinance No. 2022-11 and below, including individuals with certified Detroit Legacy status as defined by Ordinance No. 2022-11; or an entity where one or more of the aforementioned individuals owns and controls at least 51% of the applicant entity.
  - Disproportionately impacted community is defined as any community where marijuana- related convictions are greater than the state of Michigan median, and where 20% or more of the population is living below the federal poverty level according to 2019 American Community Survey 5-year estimates published by the United States Census Bureau.
- All limited license applicants will be scored by an independent third party (to be determined) on a 100-point scale for general scoring criteria plus a 27-point scale for social equity. To be eligible for the qualified applicant lottery (if needed), applicants must score a minimum of 100 points on the general scoring criteria and a minimum of five points on the social equity scoring criteria.
- Three 30-day periods shall be established for accepting applications, with each of the three periods separated by a period of at least 120 days. Each period is established by City Council. Again, the first application period was scheduled to begin August 1, 2022 (on hold).
- Following each 30-day application period, the city may issue up to the following number of licenses to qualified applicants who applied for the corresponding license during the period:
  - 20 adult-use retailer licenses following the first application period, and 15 following each of the second and third periods (50 total).
  - 20 adult-use equity retailer licenses following the first application period, and 15 adult-use retailer equity licenses following each of the second and third periods (50 total).
  - 5 microbusiness licenses (15 total).
  - 5 microbusiness equity licenses (15 total).
  - 5 designated consumption establishment licenses (15 total).
  - 5 designated consumption establishment equity licenses (15 total).
- City Council may establish additional 30-day application periods after the conclusion of the foregoing three 30-day application periods as deemed necessary based on the number of limited licenses still available under the cap, if any.

- After each application period, the Marijuana License Review Committee (MLRC), which was established by Ordinance No. 2022-11, shall evaluate submitted applications in accordance with the following scoring criteria and shall award the applicant the number of points listed below for each category satisfactorily completed.
- After the license applications have been reviewed and scored by an independent third party, the MLRC will recommend the highest scoring applications to BSEED, and BSEED may issue licenses in the manner required by Ordinance No. 2022-11.

Non-Equity License Application		Equity License Application	
Eligibility			
Anyone		Equity Applicants	
General Scoring Criteria (100 points maximum)			
Business Plan			
Operations	5	Operations	
Waste Management	5	Waste Management	
Safety and Nuisance Mitigation	5	Safety and Nuisance Mitigation	
Training	5	Training	
Security Plan	5	Security Plan	
Site Control			
Unexpired conditional land use approval	5	Unexpired conditional land use approval	
Obtained all building permits	5	Obtained all building permits	
Obtained Certificate of Occupancy or Certificate of Compliance for permitted use	15	Obtained Certificate of Occupancy or Certificate of Compliance for permitted use	
Due Diligence			
MRTMA Entity Prequalification	5	MRTMA Entity Prequalification	
Income Tax Clearance	5	Income Tax Clearance	
Property Tax Clearance	5	Property Tax Clearance	
Blight Clearance	5	Blight Clearance	
No history of illegal operation or existing violations	5	No history of illegal operation or existing violations	
Community Investment			
Complete a “Good Neighbor Plan”	10	Complete a “Good Neighbor Plan”	
Leadership roles in duly established and licensed (if applicable) Detroit-based businesses, nonprofits, philanthropic organizations, community block clubs or neighborhood association during the previous five years	15	Leadership roles in duly established and licensed (if applicable) Detroit-based businesses, nonprofits, philanthropic organizations, community block clubs or neighborhood association during the previous five years	

Social Equity Scoring Criteria (27 points maximum)			
Eligibility			
Anyone		Equity Applicants	
Sell real property that is properly zoned and licensable for an adult-use marijuana establishment to an equity applicant within 2 years prior to applying for licensure for less than 50% of the real property’s appraised fair market value; OR, form a joint venture with an equity applicant where the equity applicant owns and controls 41-50% applicant equity	25	According to the 2019 American Community Survey 5-year estimates published by the United States Census Bureau, Equity applicant’s primary residence is in a disproportionately impacted community where at least 35% of the population lives below the federal poverty level	
Lease licensable, habitable space to an equity applicant at a properly zoned property (does not have to be the same property for which the non-	15	According to the 2019 American Community Survey 5-year estimates published by the United States Census Bureau, Equity applicant’s	

equity applicant is seeking licensure) for at least 20 years and at a rate not exceeding 50% of the average market rent for similar commercial or industrial properties in Detroit; OR, form a joint venture with an equity applicant where the equity applicant owns and controls 31-40% applicant equity		primary residence is in a disproportionately impacted community where at least 30% of the population lives below the federal poverty level
Lease licensable, habitable space to an equity applicant at a properly zoned property (does not have to be the same property for which the non-equity applicant is seeking licensure) for at least 10 years and at a rate not exceeding 60% of the average market rent for similar commercial or industrial properties in Detroit; OR, form a joint venture with an equity applicant where the equity applicant owns and controls 20-30% applicant equity	5	According to the 2019 American Community Survey 5-year estimates published by the United States Census Bureau, Equity applicant's primary residence is in a disproportionately impacted community where at least 20% of the population lives below the federal poverty level
Joined the Michigan Joint Ventures Pathway Program	1	Joined the Michigan Joint Ventures Pathway Program
Commit to publishing applicant's Social Equity Plan on State's website	1	Commit to publishing applicant's Social Equity Plan on State's website

***Equity Scoring Incentives***

There are two key mechanisms that Ordinance No. 2022-11 provides that seek to address equity in the license application scoring process, both involve the optional social equity scoring criteria above.

1. First, Equity Applicants, which is a defined term, may be eligible for 5, 15, or 25 points if the applicant's primary residence is a disproportionately impacted community where a certain percentage of the population lives below the federal poverty level.
2. Second, any other (non-equity) applicants may be eligible for 5, 15, or 25 points if the non-equity applicant either provides certain eligible property or habitable space towards a marijuana license for an equity applicant, or the non-equity applicant establishes a joint venture with an equity applicant for a certain percentage of the total applicant equity towards a shared marijuana license.

As both the equity and non-equity social scoring criteria tracks are optional, this will especially incentivize non-equity applicants to pursue the social equity scoring criteria as without the 5, 15, or 25 points available in addition to the general scoring criteria of 100 points, applicants may fall out of the top 20 or 15 retailer licenses available each period, for example, if they can only produce 100 total points where applicants that include social equity scoring criteria may have up to 127 points. Addressing the social equity scoring criteria, as a non-equity or equity applicant, can provide a real advantage for applicants over those that do not choose to utilize the social equity scoring criteria.

***Limited Licenses – Key Requirements for Medical Provisioning Centers***

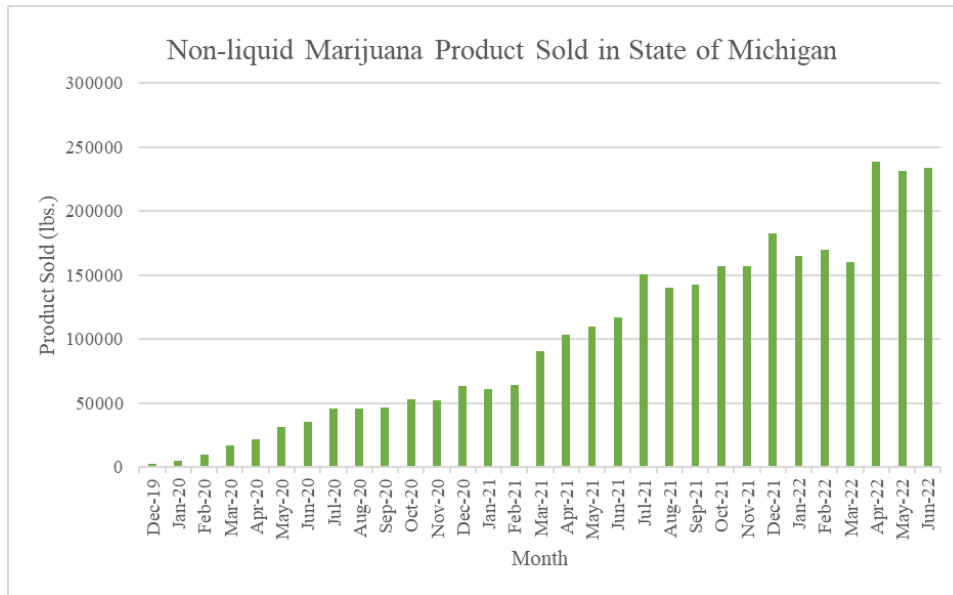
- Notwithstanding the numerical cap of 75 medical marijuana provisioning center licenses, from and after the effective date of Ordinance No. 2022-11 (April 20, 2022), the city shall not issue any new medical marijuana provisioning center licenses under this Ordinance. (Meaning: all new provisioning centers are intended to be captured by Ordinance No. 2022-11.)
- The above prohibition does not prohibit the renewal of any unexpired medical marijuana provisioning center licenses, or the approval of license applications for medical marijuana provisioning centers submitted to BSEED as of April 20, 2022, subject to the 75 cap. (Meaning: there is a grace period between the Ord. effective date and application periods.)

- Lastly, beginning on January 1, 2027, any licensees that are holders of one or more licenses to operate a medical marijuana provisioning center in accordance with Ordinance No. 2022-11 and which have been the holder of such licenses prior to the 4/20/22 effective date of the ordinance, may apply for an adult-use retailer license through the Ordinance process. (Meaning: existing provisioning centers licensed under the Ord. cap of 75 may be eligible to transition from a medical provisioning center to an adult-use retailer beginning in 2027.)

**SUMMARY OF RESEARCH FROM JULY 21, 2022 CPC PRESENTATION**

***Statewide Monthly Sales (Demand)***

In response to questions from Commissioners, CPC staff researched the current demand for adult-use businesses. Monthly statistical reports from the Michigan Marijuana Regulatory Agency (MMRA) show that the amount of product sold in the month of June 2022 (223,804.90 lbs.) has almost doubled from the figure in June 2021 (116,921.52 lbs.), primarily due to the opening and expansion of the recreational marijuana market. In recent months figures have declined slightly from the April 2022 (238,659.39 lbs.) peak. However, the amount of product sold in the state continues to trend upward. Below is a chart that shows the amount of marijuana product sold in Michigan in each month from December 2019 to June 2022.



***Statewide Active Licenses (Demand)***

Related to product sold, the below table provides a summary of the active number of medical and adult-use marijuana licenses issued statewide as of June 30, 2022. This information was provided by the Cannabis Regulatory Agency as part of a July 26 presentation with the Department of Treasury.

<b>Medical – 1,370 Total Licenses</b>	
Municipalities Opted-In	163
Municipalities Opted-Out	N/A
Facility Type	Licenses
Grower A	85
Grower B	17

<b>Adult-Use – 1,600 Total Licenses</b>	
Municipalities Opted-In	123
Municipalities Opted-Out	1,384
Establishment Type	Licenses
Class A Grower (<100 plants)	7
Class B Grower (<500 plants)	85

Grower C	621
Processor	141
Provisioning Center	461
Safety Compliance Facility	22
Secure Transporter	23

Class C Grower (<2,000 plants)	619
Excess Grower (<2,000 plants)	108
Processor	152
Retailer	526
Class A Microbusiness	1
Microbusiness	14
Secure Transporter	24
Safety Compliance Facility	19
Designated Consumption Est.	2
Educational Research	0
Marijuana Event Organizer	41
Temporary Marijuana Event	2

***Marijuana Supply Chain***

CPC staff spoke with several marijuana industry practitioners to gain further insight into the supply chain from marijuana growers to retailers who sell the product to consumers. These practitioners included an owner of a marijuana grower (class unspecified), the marketing and sales director of a marijuana grower, a general manager of a marijuana retailer, and the owner of a medical marijuana provisioning center in Detroit. They explained that deliveries from growers to retailers are operated by secure transporters who use unmarked light commercial vehicles (vans). The orders for product are done by retailers on an as-needed basis and the deliveries are conducted shortly after. The general manager of the marijuana retailer explained that they typically receive deliveries on a weekly basis. Depending on the location of facilities, most retailers may choose to use full time security as an additional measure to ensure safety for the business, but it is not a state requirement to have security.

***Marijuana Enforcement – City of Detroit***

The Buildings, Safety Engineering, and Environmental Department (BSEED) provided CPC staff with information regarding the enforcement/compliance monitoring done by the city and BSEED for marijuana businesses. The agencies that are involved with enforcement include BSEED, the Detroit Police Department (DPD), City Health Department, and Law Department. BSEED explained that property maintenance seeks out all illegal marijuana dispensaries and grow facilities that have been illegally operating or have been closed. They then use a Marijuana Smartsheet (collaborative software) to communicate with Detroit Police and Law Department to ensure that properties stay closed until they obtain all the necessary licenses and permits to legally operate. All signage pertaining to the illegal use and illegal lighting are required to be removed once the building is closed as specified in the correction order to the owner. If these steps are not completed, then enforcement is escalated to the Law Department. Property Maintenance is also responsible for performing annual inspections every two years that can lead to the property obtaining a certificate of compliance. Once the certificate of compliance is issued BSEED approves the business license.

If residents suspect that there is an illegal marijuana business, they are encouraged to contact BSEED to file a complaint at 313-628-2451. If a resident suspects that illegal activities are being conducted around a legally permitted marijuana establishment, they should contact the Detroit Police Department. The city has closed 110 illegal properties and there are 14 properties that are under



litigation with the Law Department. Additionally, the state Cannabis Regulatory Agency has a web address where complaints may be filed at [www.michigan.gov/cra/file-a-complaint](http://www.michigan.gov/cra/file-a-complaint).

## **SUMMARY OF PROPOSED TEXT AMENDMENT**

This proposed zoning text amendment would affect four uses that are subject to limited licenses under the April 2022 licensing ordinance, and which the opening of the first application period (August 1, 2022) has been delayed by a temporary restraining order specific to three of the uses:

1. Medical marijuana provisioning center facilities
2. Marijuana retailer establishments
3. Marijuana microbusinesses
4. Designated marijuana consumption establishments

### ***Zoning Ordinance Definitions (Current Language – No Amendments Proposed)***

**Medical marijuana provisioning center facility:** A location where a licensee that is licensed as a provisioning center under the Michigan Medical Marijuana Facilities Licensing Act (MMFLA), as well as under Chapter 20, Article VI, of this Code, operates a commercial entity located in the State of Michigan that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana to qualifying patients, directly or through the registered primary caregivers of patients. Medical marijuana provisioning center facility includes any commercial property where medical marijuana is sold at retail to qualifying patients (meaning patients with a state-issued medical marijuana I.D.) or primary caregivers. A medical marijuana caregiver center is not a medical marijuana provisioning center facility for purposes of this chapter.

**Marijuana retailer establishment:** A location where a licensee that is licensed as a marijuana retailer under the Michigan Regulation and Taxation of Marijuana Act (MRTMA), and as a retailer under Chapter 20, Article VI, of this Code, operates a commercial entity that obtains marijuana from adult-use marijuana establishments and sells or transfers marijuana to individuals who are 21 years of age or older and to other adult-use marijuana establishments.

**Marijuana microbusiness:** A location where a licensee that is licensed as a marijuana microbusiness under the Michigan Regulation and Taxation of Marijuana Act (MRTMA), and as a microbusiness under Chapter 20, Article VI, of this Code, operates a commercial entity that cultivates not more than 150 marijuana plants, or more as allowed by the State of Michigan, processes and packages marijuana, and sells or otherwise transfers marijuana to individuals who are 21 years of age or older or to a marijuana safety compliance facility, but not to other adult-use marijuana establishments or medical marijuana facilities.

**Designated marijuana consumption establishment:** A location where a licensee that is licensed as a designated marijuana consumption establishment under the Michigan Regulation and Taxation of Marijuana Act (MRTMA), and as a designated consumption establishment under Chapter 20, Article VI, of this Code, operates a commercial entity that allows adults 21 years of age and older to consume marijuana products at a commercial location designated by the state operating license.

### ***Minimum Spacing Requirements***

The first proposed amendment is to consider if it would be appropriate to modify minimum spacing requirements and applicability for the above four marijuana uses that involve the retail sale or consumption of marijuana (does not include primary caregivers under the MMA). The current set

of marijuana Zoning Ordinance regulations passed in March 2021 requires substantial minimum spacing requirements for these uses in addition to all marijuana uses being Conditional. Permissible districts for the three uses in question are as follows:

Specific Land Use	B2	B4	B5	B6	M1	M2	M3	M4	PD	SD2
Marijuana retail/provisioning facility	C	C	C	C	C	C	C	C	L	C
Marijuana microbusiness	C	C	C	C	C	C	C	C	L	C
Designated consumption establishment	C	C	C	C	C	C	C	C	L	C

While permissible districts are the first location-based zoning consideration for any use, for marijuana and certain other uses, minimum spacing requirements are just as important as zoning district permissibility. While a site may have permissible zoning for a marijuana use, the minimum spacing requirements can override zoning district permissibility by eliminating specified areas from consideration for a proposed use where the zoning district would otherwise permit the use.

The table below (ZO Sec. 50-12-132) indicates proposed changes to the current minimum spacing requirements. Text underlined in black is clarification of an existing ZO requirement to remain, while text in red is the proposed amendment language. The first use type column functions as the proposed use when considering spacing to uses in the middle and far right columns. In general, the proposed amendment seeks to increase the amount of available property eligible for the below four three use types through the limited elimination of certain spacing requirements and the reduction by 25% of other requirements. The below table has been updated to reflect concerns of the Law Department and BSEED with the initial proposal, with the exception that the proposed reduction from Controlled Uses remains.

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved) or Zoning District
Marijuana retail/provisioning facility	1000 radial feet	<ul style="list-style-type: none"> <li>- <u>Drug-free zone: prohibited;</u></li> <li>- <u>Gateway Radial Thoroughfare Overlay Area: prohibited;</u></li> <li>- <u>Traditional Main Street Overlay Area: prohibited;</u></li> <li>- Religious institution identified as exempt by the City Assessor: 1000 radial feet;</li> <li><del>Designated marijuana consumption establishment: 1000 radial feet</del></li> <li>- Marijuana microbusiness: 1000 radial feet</li> <li>- <b>Controlled Uses: <del>1000</del> <u>750</u> radial feet</b></li> </ul>
Marijuana microbusiness	1000 radial feet	<ul style="list-style-type: none"> <li>- <u>Drug free zone: prohibited;</u></li> <li>- <u>Gateway Radial Thoroughfare Overlay Area: prohibited;</u></li> <li>- <u>Traditional Main Street Overlay Area: prohibited;</u></li> <li>- Religious institution identified exempt by the City Assessor: 1000 radial feet;</li> <li>- Marijuana retail/provisioning center facility: 1000 radial feet</li> <li><del>Designated marijuana consumption establishment: 1000 radial feet</del></li> <li>- <b>Controlled Uses: <del>1000</del> <u>750</u> radial feet</b></li> </ul>

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved) or Zoning District
Designated marijuana consumption establishment	1000 radial feet	<ul style="list-style-type: none"> <li>- <del>Drug free zone: prohibited;</del></li> <li>- <del>Gateway Radial Thoroughfare Overlay Area: prohibited;</del></li> <li>- <del>Traditional Main Street Overlay Area: prohibited;</del></li> <li>- Religious institution identified exempt by the City Assessor: 1000 radial feet;</li> <li><del>Marijuana retail/provisioning center facility: 1000 radial feet</del></li> <li><del>Marijuana microbusiness: 1000 radial feet</del></li> <li><b>- Controlled Uses: 1000 <u>750</u> radial feet</b></li> </ul>

Given the relatively low interest statewide in marijuana microbusinesses and designated consumption establishments, and the extremely high interest statewide and citywide in retail facilities, the proposed amendment that would likely have the greatest impact on the recreational marijuana industry in Detroit would be the reduction in the minimum spacing requirements from Controlled Uses.

**Controlled Uses – ZO Section 50-3-402**

The following land uses shall be considered Controlled Uses under the Zoning Ordinance:

1. Arcades outside the M1, M2, M3, M4, PC, PCA, or TM Districts
2. Specially designated merchant’s (SDM) establishments and/or specially designated distributor’s (SDD) establishments
3. Pool halls outside the B5, B6, M1, M2, M3, M4, PCA, and TM Districts

Provided below are the definitions of SDD and SDM. Given the high number of existing SDD and SDM uses within Detroit, any minimum spacing requirement to these uses is highly impactful for a proposed use with required spacing to Controlled Uses. CPC staff is continuing to research these uses as they relate to marijuana and plan to have sample maps to present at a September CPC meeting to evaluate how the proposed spacing reduction would impact available property.

Specially designated distributor’s est. (SDD)	Specially designated merchant’s est. (SDM)
A retail establishment, consisting of less than 15,000 square feet of gross floor area, licensed by the Michigan Liquor Control Commission to distribute alcoholic liquor in the original package for consumption off the premises, which alcoholic liquor is <u>other than</u> beer and other than wine under 20 percent alcohol by volume;	A retail establishment, consisting of less than 15,000 square feet of gross floor area, utilized for the distribution of alcoholic liquor, licensed by the Michigan Liquor Control Commission to sell <u>beer and/or wine</u> for consumption off the premises;
an SDD is also any retail establishment, regardless of size, where more than ten percent of the usable retail space is utilized for the display or distribution of alcoholic liquor other than beer and other than wine under 20 percent alcohol by volume, for consumption off the premises.	an SDM is also any retail establishment, regardless of size, where more than ten percent of the usable retail space is utilized for the display or distribution of alcoholic liquor and is licensed to sell beer and/or wine for consumption off the premises.

In addition to Controlled Uses (four uses in total), the Drug-free zone spacing (prohibition) requirement includes seven uses as defined by the Zoning Ordinance. Provided below is a full list of

all uses that the three marijuana uses in question require spacing from and which are verified by BSEED as part of the pre-licensing application process to determine if individual sites are eligible:

Drug-free zone: prohibited within 1,000 radial feet of a zoning lot of a(n) (Sec. 50-16-172):

1. Child care center, as defined in Section 50-16-152 of this Code
2. Educational institution, as defined in Section 50-16-191 of this Code
3. Library, as defined in Section 50-16-283 of this Code
4. Outdoor recreation facility, as defined in Section 50-16-324 of this Code, other than parkways and parklots
5. School, as defined in Section 50-16-381 of this Code
6. Youth activity center as defined in Section 50-16-462 of this Code
7. Public housing as defined in 42 USC § 1437a(b)(1)

Overlay Areas/Religious Institutions

8. Gateway Radial Thoroughfare Overlay Area: prohibited
9. Traditional Main Street Overlay Area: prohibited
10. Religious institution identified as exempt by the City Assessor: 1000 radial feet

Controlled Uses: 1,000 radial feet from:

11. Arcades outside the M1, M2, M3, M4, PC, PCA, or TM Districts
12. Specially designated merchant's (SDM) establishments and/or specially designated distributor's (SDD) establishments
13. Pool halls outside the B5, B6, M1, M2, M3, M4, PCA, and TM Districts

***CPC Staff Findings – Minimum Spacing Requirements***

Below are CPC staff's findings related to the proposed amendment to spacing requirements:

- Given that there is no desire currently to reduce or alter the list of uses under the drug-free zone prohibition, nor the desire to permit these marijuana uses within the two overlay areas or within 1,000 feet of a religious institution, staff has proposed a 25% reduction to the Controlled Uses spacing requirement as a means of exploring if this would be desirable in order to increase the amount of available property that would be eligible for these three uses.
- Controlled Uses are also the focus of a potential reduction in that Detroit's Zoning Ordinance is unique in its regulation of Controlled Uses where most municipalities in Michigan that permit marijuana uses only require minimum spacing from drug-free zones (which may be reduced below 1,000 feet if desired by the municipality) or other marijuana uses. The CPC may wish to consider if the character of a marijuana retailer, which warrants 1,000 feet of spacing from a drug-free zone use, such as a school, also warrants the same spacing from a Controlled Use, such as a party store, and if reducing the Controlled Use spacing by 25% could likely have an undesirable effect related to marijuana uses and party stores.
- Given the complexity of measuring spacing and determining prohibitions from the list of 13 uses or areas required, nine of which do not include Controlled Uses, these nine other uses or areas that are not proposed to be amended still have the strong potential to override any reduction to Controlled Use spacing if a site still does not meet the full spacing list. For example, a site may meet a reduced 750-foot spacing from a Controlled Use, but if the site is still within 1,000 feet of a school or park, the site would remain ineligible for zoning approval.

Therefore, the importance of the drug-free zone spacing would remain and would supersede any reduction to Controlled Use spacing.

- Ordinance No. 2022-11 permits 235 limited licenses for Medical Provisioning Centers (75), Adult-Use Retailers (100), Designated Consumption Lounges (30), and Microbusinesses (30). For Adult-Use Retailers, which is the most desired use of these four, staff will be completing additional research in coordination with BSEED to determine if reaching the 100 licenses cap is even achievable under the current minimum spacing requirements based on the number of applicants that have obtained pre-licensing zoning approval under current spacing. It is our understanding, based on preliminary conversations with BSEED, that a 25% reduction to Controlled Use spacing would increase the number of sites eligible for zoning approval.
- Within the proposed, revised spacing table (Sec. 50-12-132), amendments are also proposed that would eliminate minimum spacing requirements between the following uses:
  - Marijuana retail/provisioning facility and Designated marijuana consumption establishment
  - Designated marijuana consumption establishment TO Marijuana retail/provisioning facility
  - Marijuana microbusiness and Designated marijuana consumption establishment
  - Designated marijuana consumption establishment and Marijuana microbusiness
- The purpose of the above-proposed spacing eliminations is to accommodate how designated consumption establishments are intended to function at the state level, and to encourage applicants to pursue licensing for microbusinesses and consumption establishments where they may not be able to pursue licensing for a marijuana retail/provisioning facility. See below for more information on these two uses.

### ***Designated Consumption Lounges***

The second proposed amendment is to consider if it would be necessary to add specific use standards for designated marijuana consumption establishments where there are currently no specific use standards. The following is proposed language that would be added to Section 50-12-413. - Medical marijuana facilities and adult-use marijuana establishments:

(6) Designated marijuana consumption establishments are not permitted as an accessory use and must not include an accessory use. Designated marijuana consumption establishments may be located on the same zoning lot and/or in the same building as a non-marijuana use, as a separate principal use of the premises, subject to all applicable regulations of this Code and operated in accordance with the rules promulgated by the State of Michigan.

Currently, there is low statewide demand for consumption establishments as reflected in the fact that only two licenses have been issued, one in Kalkaska, MI, (Kalkushka) and one in Hazel Park, MI, (Hot Box Social). Currently, Section 50-3-537(a) of the current set of marijuana Zoning Ordinance regulations prohibit consumption establishments from being considered as an accessory use to a different principal use, and also prohibit consumption establishments from including accessory uses. This current requirement is reflected in the second sentence of the proposed Subsection (6) above.

The second sentence in (6) above seeks to regulate a scenario that is not clearly addressed in Ordinance No. 2022-11 or the Zoning Ordinance, that subject to state requirements, a marijuana use, in this case a designated marijuana consumption establishment, could be combined with a non-

marijuana use on the same zoning lot and/or in the same building as a non-marijuana use. The current language in Section 50-3-537(a) states that multiple types of medical marijuana facilities and adult-use marijuana establishments may be combined in this way, but it is silent on the combination of marijuana and non-marijuana uses. Staff has been consulting with the Law Department to determine if the current language is an effective prohibition on the combination of marijuana and non-marijuana uses, or not. For administrative purposes, this lack of clarification on combining marijuana and non-marijuana uses does not appear to be a prohibition as there are numerous examples of marijuana uses being located within strip malls or shopping centers that contain non-marijuana uses, such as the Bel Air Shopping Center.

While the above language in Subsection (6) may only reinforce existing city policy, if there is the desire to permit the combination of designated consumption establishments with non-marijuana accessory uses, or to permit non-marijuana principal uses with accessory designated consumption establishments, which is less likely, this could be the location within the ZO where such exception could be added if desired.

### ***Kalkushka Lounge – Accessory Coffee Bar***

Kalkushka Lounge in Kalkaska, MI, provides one example of the potential for a designated consumption lounge to also include a non-marijuana accessory use. As indicated in the below photo from Google Maps (link: [photos](#)), the consumption lounge also includes a small coffee bar in the rear of the lounge. Under the Detroit Zoning Ordinance, this would likely be considered an accessory use.



The presence of this accessory coffee bar, which includes non-alcoholic drinks and non-cannabis snacks, appears to be consistent with the below LARA rule where food (not required to be prepackaged) is allowed onsite or as part of a consumption establishment:

R 420.203 Rule 3(2)(b) of the LARA, MRA, Marihuana Operations (effective March 7, 2022):

“A marijuana business shall not allow onsite or as part of the marihuana business any of the following:  
(i) Sale, consumption, or serving of food except as provided in these rules unless the business is a designated consumption establishment or a temporary marijuana event that has obtained any required authorization from other federal, state, or local agencies.”

Again, with the current language reflected in Subsection (6) the previous page, if the Kalkaska consumption lounge with coffee bar were proposed in Detroit, the coffee bar, if considered an accessory use to the consumption establishment principal use, would not be permitted by the Zoning Ordinance based on current requirements. Additionally, there are state and City of Detroit Health Department implications for food and beverage uses that would need to be considered, but from the perspective of state marijuana regulations, food sale, consumption, and service is permitted only for designated consumption establishments or a temporary marijuana event. Therefore, as part of the public hearing, CPC staff wishes to gain feedback on the following:

- The potential for combining consumption establishments with food-related uses (e.g. restaurants, cafes, coffee bars, etc.)
- The potential for combining consumption establishments with non-food related uses (e.g. yoga studios, salons, rental halls, etc.)

### ***Temporary Uses***

The third and final proposed amendment is to correct a conflict between language within Ordinance No. 2022-11 and the Zoning Ordinance. The following is proposed language, as modified through discussions with the Law Department, that would amend Zoning Ordinance Section 50-12-563. - Prohibited temporary uses:

- (4) Medical marijuana facilities and adult-use marijuana establishments, except for temporary marijuana events as defined by this Code and approved by City Council in accordance with Section 20-6-24.

Ordinance No. 2022-11 defines Temporary marijuana event and Marijuana event organizer as follows:

- *Temporary marijuana event* means a license held by a marijuana event organizer under this article and the MRTMA, which the state has approved, authorizing an event where the onsite sale or consumption of marijuana products, or both, are authorized at the location and on the dates indicated on the state operating license.
- *Marijuana event organizer* means a state license holder authorized to apply for a temporary marijuana event license in accordance with the MRTMA.

### **CPC Staff Findings**

- Under Ordinance No. 2022-11, both temporary marijuana events and Marijuana event organizers are unlimited license types that are currently permitted to be processed by BSEED with no zoning district restrictions as this is a temporary use.
- A property that is the designated location and subject of an application for a business license for a temporary marijuana event shall have a certificate of occupancy, a certificate of compliance, and no outstanding blight violations, inspection fees, or property taxes to be eligible for approval. Additional requirements are contained within Ordinance No. 2022-11, including that applicants are required to cooperate with law enforcement during temporary marijuana events and in any enforcement action taken as a result of the event.
- Section 20-6-24 of Ordinance No. 2022-11 requires that the City Council approve temporary marijuana events before an event license may be issued by BSEED. As the Ordinance No. 2022-11 definition of Adult-use marijuana establishment includes a business licensed to operate a temporary marijuana event and/or a marijuana event organizer, the Zoning Ordinance conflicts with this definition as it currently prohibits adult-use marijuana establishments as a temporary use citywide under zoning.

- Therefore, exception language is proposed to be added that would eliminate this conflict by permitting only temporary marijuana events, which are considered an adult-use establishment, by referencing requirements in Ordinance No. 2022-11 for approval. This conflict correction has been preliminarily verified with the Law Department.

## **PRELIMINARY CONCLUSION**

Staff will provide an updated report, and possibly a recommendation, incorporating the results of the public hearing at a future meeting. If desired, the CPC may wish to continue the public hearing to a future meeting date to continue to receive public comments related to new information and research that may be presented or discussed at future meetings in response to the August 4 discussion.

Attachment: Ordinance No. 2022-11  
Public Hearing Notice  
Draft Marijuana Text Amendment Ordinance 7/19/2022

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