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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.  
**(RECOMMEND APPROVAL)**

**DATE:** September 7, 2022

On August 4, 2022, the City Planning Commission (CPC) held a public hearing on the subject text amendment as originally proposed within the initial July 19, 2022, Draft Marijuana Text Amendment Ordinance and revised as stated at the August 4 meeting. Please refer to the attached August 2 CPC report, also available through this [link](#), for a summary of background information on legalized marijuana statewide and within the City of Detroit, equity participation through Ordinance No. 2022-11 (business licensing), and a summary of the initial July 19 amendment.

### **COMMUNITY FEEDBACK**

#### ***August 4 CPC – Commissioner Feedback***

At this meeting, CPC staff and Commissioners expressed a desire to receive additional community feedback beyond the August 4 public hearing. This additional desired feedback included outreach through the Department of Neighborhoods weekly citywide virtual meetings (DON Casts) and a public forum with CPC staff. For each of these meetings CPC staff mailed and emailed notices, as well as information to attend the September 8 continued public hearing, to approximately 200 individuals whose contact information was made available to CPC staff through BSEED marijuana zoning application information. Additional contacts were made through the office of City Council President Pro Tem James Tate and the Civil Rights, Inclusion, and Opportunity Department's (CRIO) Office of Marijuana Ventures and Entrepreneurship (HomeGrown Detroit). A summary of each of these two meetings is provided below. Additionally, there was a desire for specific feedback from the Detroit Police Department on the proposed spacing reductions and crime related to the marijuana industry, provided below.

Related specifically to the proposed text amendment, Commissioners stated a desire to explore the following items that could potentially be addressed through an updated draft ordinance:

- Adding the ability for administrative adjustments to marijuana spacing requirements
- Addressing a perceived overconcentration of marijuana uses as presented by a member of the public in certain Council Districts
- Restricting designated consumption lounges to enclosed/indoor consumption only
- Exploring a further reduction of required spacing from Controlled Uses to 500 feet
- Studying the inclusion of marijuana uses in Eastern Market (from 2021 MKT amendment)

CPC staff presented the Commission's desire for feedback on each of the above items as part of an August 29 DON Cast presentation and discussion, and an August 31 CPC forum presentation and discussion. Feedback received from each of these meetings is summarized below.

#### ***August 4 CPC – Public Comment***

At this meeting, there were approximately three in-person attendees and 13 virtual attendees that provided public comment. Most attendees appeared to be individuals with direct involvement or interest in the Detroit marijuana industry. The following is a summary of comments:

1. In-person Speaker #1: stated they have been waiting for (drug-free zone) spacing to be reduced to 750 feet as they are located 993 feet from a park (a drug-free zone), and had general questions related to how marijuana requirements are implemented and eligible property.
2. In-person Speaker #2: stated that SDD/SDM (Controlled Use) spacing requirements need to be addressed related to restaurants that sell carry-out liquor and dollar stores that may now be considered SDD/SDM uses, as well as the ability to delete religious institutions from the Assessor's database, and encouraging the Microbusiness Class A option.
3. In-person Speaker #3: stated that they have an interest in operating a marijuana use as a Najavo Nation/Corporation church, which they believe are exempt from zoning.
4. Virtual Speaker #1: stated that they are currently licensed by the state as a temporary marijuana event organizer and that they would like to obtain a consumption establishment, that finding property is one of the biggest hurdles, along with capital, and requested that the city reduce requirements as there are many closed churches and liquor stores, and that, as a Legacy Detrouiter, they are waiting for help from the city to make property available.
5. Virtual Speaker #2: stated that zoning is the number one thing that should be addressed and would like to see spacing requirements reduced to 750 or 500 feet, or something else, as anything is better than 1,000 feet.
6. Virtual Speaker #3: stated that they are in full support of the proposed amendment to provide land and increase diversity as land is one of the most common barriers to entry in the industry and would present opportunity for those most harmed by the prohibition of marijuana.
7. Virtual Speaker #4: stated that they support the amendment as presented and that a variance process should be added with a focus on neighborhood benefits agreement, and that about 40 properties and 20 licenses are remaining without viable property.
8. Virtual Speaker #5: stated that if the proposed spacing reductions do not prove to be effective, if adopted, that CPC should consider reducing requirements further.
9. Virtual Speaker #6: stated that they are in favor of a variance process to spacing requirements, specifically related to (drug-free zone) uses located outside of the City of Detroit that impact applicants within Detroit, as there is property along the city border that is ineligible for marijuana uses due to current spacing requirements.
10. Virtual Speaker #7: stated a desire to reduce spacing requirements for equity applicants only (not proposed), and had concerns that there could be too many dispensaries licensed under the Microbusiness use.

11. Virtual Speaker #8: stated that Council District 3 is saturated with medical marijuana provisioning centers and that they opposed spacing reductions due to concerns with the negative impact, specifically crime, the spacing reduction could have on District 3 because of the amount of residential property that abuts industrial property where provisioning centers may be located, and that District 3 residents opposed the unlimited licensing of marijuana grow uses.
12. Virtual Speaker #9: stated that they are concerned with the lack of suitable properties for marijuana uses and that additional property may not be available by the time the (first) license application review period opens.
13. Virtual Speaker #10: stated that they support the package of proposed amendments and had questions related to removing churches no longer in operation.
14. Virtual Speaker #11: stated that the city should reward Detroiters who have stayed.
15. Virtual Speaker #12: stated that they are in the process of submitting an application and need the spacing requirement lowered to 500 or 750 feet, that they would like some kind of reward for remaining in the city, and that everyone is affected by the war on drugs.
16. Virtual Speaker #13: requested the ability for BSEED to grant a 10% administrative waiver to marijuana spacing requirements.

### ***August 29 DON Cast***

At this virtual meeting, there were approximately 170 attendees, with 11 individuals providing comments. Most individuals providing comments did not appear to have any direct involvement in the marijuana industry, and appeared to be opposed to marijuana, in general. The following is a summary of comments:

1. Speaker #1: stated that there is a reason you do not see a lot of dispensaries in suburban areas, that the city needs to study the mental health impacts of marijuana as we do not necessarily know the chemicals in marijuana, and that as a lot of businesses may be fronts for other vices, that the city should not (legally) mix businesses to avoid negative impacts.
2. Speaker #2: stated they support equity but want to make sure those imprisoned for marijuana offenses are freed, that they are concerned with block parties that may involve marijuana, that they have health concerns with the current potency of marijuana, and that there is an increase in crime and blight due to marijuana.
3. Speaker #3: stated their opposition to dispensaries, concerns with there being no community approval in the licensing or zoning processes, and appeared to oppose existing buildings being reused as dispensaries.
4. Speaker #4: stated marijuana is still illegal at the Federal level, which has not worked out and that marijuana has had a negative impact on Southwest Detroit and legalization is programming children that marijuana is ok, that crime statistics should be considered, and that they have concerns with existing hookah houses.
5. Speaker #5: asked where the presentation would be available and if there were affirmative programs for enforcement or workplace incidents.
6. Speaker #6: stated concerns with alcohol and drugs, that the cannabis industry should be used to gain tax credits and reparations, and that Eastern Market can be utilized for marijuana in a safe way with the health and food industry, and that it could be a positive for the city to gain some leverage.
7. Speaker #7: stated it would be beneficial, from a business standpoint, if multiple microbusinesses could operate from the same location, and that they support reducing or eliminating spacing requirements between microbusinesses.
8. Speaker #8: stated that they support the proposed amendments.
9. Speaker #9: stated that they support equity but had concerns with proposed amendments and the impact it may have on children, and that children are being desensitized to marijuana when it was a gateway drug.

10. Speaker #10: stated there are equity and health impacts, and that there is a lot of potential for this industry as far as renewable energy.
11. Speaker #11: stated that the proposed amendments would negatively impact rebuilding neighborhoods, and that it's not appropriate to make marijuana the new normal.

### ***August 31 CPC Forum***

At this virtual meeting, there were approximately 20 attendees, with 6 individuals providing comments. Most attendees appeared to be individuals with direct involvement or interest in the Detroit marijuana industry. The following is a summary of comments:

1. Speaker #1: stated support for marijuana uses within Eastern Market as a special carve out and for reducing spacing requirements to 500 feet or allowing variances on special cases to allow legacy/equity applicants to enter the market.
2. Speaker #2: stated that they are a designated consumption lounge establishment applicant and had questions on the difference between proposed spacing requirements, research on the amount of additional property that would be made available, and how spacing requirements would apply to the co-location of multiple microbusinesses and/or consumption lounges.
3. Speaker #3: stated that they support the proposed spacing requirement reduction to 750 feet as necessary, that they support a variance process, and that they hope the amendments are supported by CPC and City Council.
4. Speaker #4: stated concerns specifically related to (drug-free zone) uses located outside of the City of Detroit that impact applicants within Detroit, and that they would like to see an administrative adjustment process that would apply to religious institutions.
5. Speaker #5: had questions regarding how parks fit under the definition of drug-free zone.
6. Speaker #6: stated that they support the amendment and that it be processed quickly.

### ***August 31 Detroit Police Department Feedback***

CPC staff has conducted a second interview with a DPD Lieutenant directly involved with marijuana regulation and enforcement, and the Lieutenant will be attending the September 8 CPC meeting to answer any questions for concerns of Commissioners and the public.

As far as the proposed text amendment, the DPD Lieutenant believes, from their experience, that the current regulations are appropriate and agrees with statements made at previous meetings that some areas are saturated with medical marijuana provisioning centers. They are observing that the price of marijuana sold at these provisioning centers is decreasing exponentially and that many provisioning centers are transitioning to adult-use (recreational) marijuana retailers in the same location as there is very little difference between state requirements to become a medical marijuana provisioning center versus and adult-use retailer.

As far as concerns with crime and the legalized marijuana industry within Detroit, statistics on crime and marijuana is not something that is specifically tracked. However, as part of DPD's involvement in the review of marijuana licenses, criminal activity and police reports are something that they refer to during this process and that they have had some minor issues with marijuana businesses but nothing out of the ordinary that would not occur at another non-marijuana business, and that because marijuana businesses are closed at night around 9 or 10 p.m., criminal activity is minimized. The most common criminal activity occurring related to marijuana businesses are where there is a burglary of the business, where the business is being victimized, or general assaults or vehicle thefts that occur nearby where the victim may get help at the marijuana business, and it is therefore used as the address in the police report.

Lastly, the Lieutenant stated they had specific concerns that if there was growth in consumption,

lounges within Detroit, that this could have a negative effect on DPD resources to address potential resulting criminal activity with consumption lounges that may be similar to problems that have occurred with hookah lounges, which are currently unregulated by the city.

## **REVISED PROPOSED TEXT AMENDMENT**

### ***Administrative Adjustments to Spacing Requirements***

A primary outcome of the August 4 CPC meeting was the desire to add the ability for marijuana zoning applicants to obtain an administrative adjustment reduction to marijuana spacing requirements. At both the August 29 DON Cast and August 31 CPC Forum, attendees were informed of this desire and generally supported it. Additionally, some commenters stated that they desired a further reduction or even an elimination of spacing requirements through the Board of Zoning Appeals (BZA). The process for eliminating spacing requirements is known as a “waiver” or “locational variance.”

Currently, the BZA or BSEED may not consider reductions to spacing requirements for marijuana uses. Section 50-12-135(b) and 50-12-136(d) prohibit waiving (reducing/eliminating) spacing requirements for medical marijuana facilities and adult-use marijuana establishments. Additionally, Section 50-4-132 prohibits the BZA from modifying spacing or location regulations by reference to 50-12-135. As CPC staff has not received direction from the Commission or Council Members to amend the Zoning Ordinance to permit either the BZA or BSEED to eliminate spacing requirements, language that would accomplish this has not been included in the revised draft ordinance.

As far as current administrative adjustment applicability, Section 50-4-122 does not permit administrative adjustments to be used to reduce spacing requirements that apply to any use, including marijuana uses. Section 50-4-122 permits administrative adjustments only for:

1. Modifications of 10 percent or less of any numeric (non-use) standard contained in Article XIII (intensity and dimensional lot standards), or any numeric standard contained in Article XIV (parking, landscaping, etc.); or
2. A reduction of off-street parking requirements for any use by up to 10 spaces.

However, in consultation with the Law Department, there does not appear to be any legal or procedural reason why spacing requirements could not be reduced through the administrative adjustment procedure. Therefore, staff has proposed to add a third category to Section 50-4-122 administrative adjustment applicability, as well as other cross-reference updates, that would state that administrative adjustments may also be used for the following as stated on page seven of the draft ordinance:

3. A reduction of two percent or less of any spacing and location requirement for medical marijuana facilities and for adult-use marijuana establishments as specified in Subsections (b)(1), (b)(3), (c)(1), (c)(3), and (d)(1) of Section 50-3-535, and Section 50-12-132 of this Code, excluding adult uses/sexually oriented businesses.

There are two key items staff would like to point out related to the proposed language. First, while there was discussion at the August 4 meeting of considering up to a 10 percent administrative reduction to spacing requirements, staff has proposed that administrative adjustments only be used to reduce spacing requirements by a maximum of two percent. This is because an administrative adjustment of 10 percent to the current 1,000-foot spacing requirement that applies to drug-free zone uses, religious institutions, and certain marijuana uses, would effectively reduce these requirements by 100 feet to 900 feet. In that case, spacing requirements could simply be amended to require 900 feet, instead of 1,000 feet, rather than requiring an administrative adjustment. More;

importantly, based on previous comments by Council Members, there does not appear to be a desire to reduce spacing requirements for drug-free zone uses or religious institutions to 900 feet. Staff has proposed a two percent reduction amount as this would equate to only a 20-foot reduction to 1,000 feet and a 15-foot reduction to 750 feet. These much smaller amounts would account for cases where an applicant meets the intent of the spacing requirements but may be short by only the width of an alley, an unused setback area on the zoning lot the spacing is measured to, or could account for minor mapping and measurement discrepancies.

The second item staff would like to point out is that the Subsections listed in the proposed language would not include any administrative adjustment to the prohibition of certain marijuana uses within the Gateway Radial Thoroughfare Overlay Area or the Traditional Main Street Overlay Area (TMSO). As overlay areas are specific areas established by boundaries that include multiple uses and zoning lots, similar to large zoning district areas, permitting a reduction of 20 or 100 feet of an overlay area, would be altering the intent of these overlay areas as these are not single uses or zoning lots, but larger areas where unique zoning policy is desired. And policy to-date is that certain marijuana uses should not be permitted in these areas. Additionally, a reduction of 20 feet of the boundary of an overlay area would not likely create a feasible development area as additional property outside of the overlay area would be required to provide a feasible development site, and these reduced boundary areas would be at the edges of overlay areas, which could be property such as an alley or residential lots that are undevelopable for marijuana uses. Staff has consulted with the Law Department on this and they are in agreement that overlay area boundaries should not be subject to administrative adjustment reductions.

### ***Overconcentration of Marijuana Uses***

At the August 4 CPC meeting, as well as in CPC staff's discussion with DPD, concerns were expressed that there may currently be an overconcentration of marijuana uses within certain areas, corridors, or Council Districts. Detailed maps indicating existing marijuana uses based on city permitting information will be presented at the September 8 CPC meeting. However, a statewide map of licensed marijuana uses, managed by the Cannabis Regulatory Agency, is available at this [link](#). Staff agrees that marijuana uses are more prevalent in certain areas than others and this may be due to multiple factors that pre-date the April 2021 effective date of the current Zoning Ordinance regulations for marijuana uses: existing zoning that was in place that permitted marijuana uses under previous zoning regulations for medical marijuana, the absence of drug-free zones (a regulation in place since the first caregivers ordinance), religious institutions, etc., that require spacing to proposed marijuana uses, the presence of existing vacant industrial or commercial buildings that could be adapted for marijuana uses, and decisions of some suburban communities to not enter, or delay entry, into the medical or recreational marijuana industry, such as the City of Warren, which may have encouraged medical marijuana businesses to open in the area of Eight Mile Road and Van Dyke Street (M-53) which provides ease of access to Macomb County.

As limited (adult-use/recreational) marijuana licenses have not been granted yet, existing marijuana uses that may have created an overconcentration or plurality would be limited to: growers, processors, secure transporters, safety compliance facilities, and medical provisioning centers. It is possible that many of these existing marijuana uses could continue in the future under the current or proposed zoning regulations, and many, if not all, medical provisioning centers will likely be pursuing licensing that allows them to remain open or to transition to an adult-use retailer in the future. This is supported by DPD's statements that they are also seeing a desire for a medical-to-recreational retailer transition in the same existing locations as there is little difference between state requirements between a medical provisioning center and an adult-use retailer.

At this time, CPC staff has not proposed any additional regulations in the proposed text amendment.

that would seek to limit the growth of marijuana uses within certain areas, corridors, or Council Districts. However, potential regulations could include additional spacing requirements, limiting marijuana uses along city boundaries, or other policy considerations that could target certain areas. Staff would like additional feedback regarding any potential overconcentration provisions before proposing any new zoning requirements as there was minimal feedback received regarding specific overconcentration concerns from the recent engagement series. However, staff has concerns that new overconcentration provisions would significantly alter the existing zoning scheme, which was an outcome of previous medical marijuana zoning regulations, and could create confusion at the administrative level or within the business community as overconcentration provisions could be a significant policy change or reversal while the business licensing process for certain adult-uses is just beginning.

Additionally, adding overconcentration provisions at this time may not have a significant effect on the issue of overconcentration as existing businesses would simply become nonconforming and would be legally permitted to continue operating, which is similar to difficulties we identified with the recent auto uses text amendment which has a substantially higher number of total uses. However, if the Commission desires staff to propose overconcentration provisions, this is something that could be done alongside this proposed amendment, or as part of a separate study or amendment at a later date.

### ***Spacing Requirements***

Since the August 4 CPC meeting, the proposed spacing regulations have been modified as indicated in the below table, which is a snap shot of the full table beginning on page eight of the draft ordinance. 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 use types through the limited elimination or reduction of certain spacing requirements as previously discussed at the August 4 meeting. In general, the proposed amendment would do the following related to spacing requirements, excluding the administrative adjustments amendment previously described above:

1. Reduce required spacing to Controlled Uses from 1,000 feet to 750 feet as applicable to designated marijuana consumption establishments, marijuana microbusinesses, and marijuana retail/provisioning facilities.
2. Clarify that “drug-free zones” are not specific zones within the City of Detroit, but rather a list of seven uses included in the definition of “drug-free zone”, which require spacing from each of these seven uses, rather than a single zone. Staff will be consulting with the Law Department to verify that this is an appropriate clarification.
3. Eliminate current spacing requirements for designated marijuana consumption lounges to marijuana retail/provisioning center facilities and marijuana microbusinesses in order to allow consumption lounges to be located near, or next to, these related uses where marijuana may be purchased for consumption.
4. Eliminate current spacing requirements for marijuana microbusinesses to designated marijuana consumption establishments- see #3 above for purpose.
5. Eliminate current spacing requirements for marijuana retail/provisioning facilities to designated marijuana consumption establishments- see #3 above for purpose.

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	- Drug free zone <u>use: 1000 radial feet;</u> - Gateway Radial Thoroughfare Overlay Area: <u>prohibited;</u> - Traditional Main Street Overlay Area: <u>prohibited;</u> - Religious institution identified exempt by the City Assessor: 1000 radial feet; <del>Marijuana retail/provisioning center facility: 1000 radial feet</del> <del>Marijuana microbusiness: 1000 radial feet</del> - Controlled uses: <del>1000</del> 750 radial feet
Marijuana microbusiness	1000 radial feet	- Drug free zone <u>use: 1000 radial feet;</u> - Gateway Radial Thoroughfare Overlay Area: <u>prohibited;</u> - Traditional Main Street Overlay Area: <u>prohibited;</u> - Religious institution identified exempt by the City Assessor: 1000 radial feet; - Marijuana retail/provisioning center facility: 1000 radial feet <del>Designated marijuana consumption establishment: 1000 radial feet</del> - Controlled uses: <del>1000</del> 750 radial feet
Marijuana retail/provisioning facility	1000 radial feet	- Drug free zone <u>use: 1000 radial feet;</u> - Gateway Radial Thoroughfare Overlay Area: <u>prohibited;</u> - Traditional Main Street Overlay Area: <u>prohibited;</u> - Religious institution identified as exempt by the City Assessor: 1000 radial feet; <del>Designated marijuana consumption establishment: 1000 radial feet</del> - Marijuana microbusiness: 1000 radial feet - Controlled uses: <del>1000</del> 750 radial feet

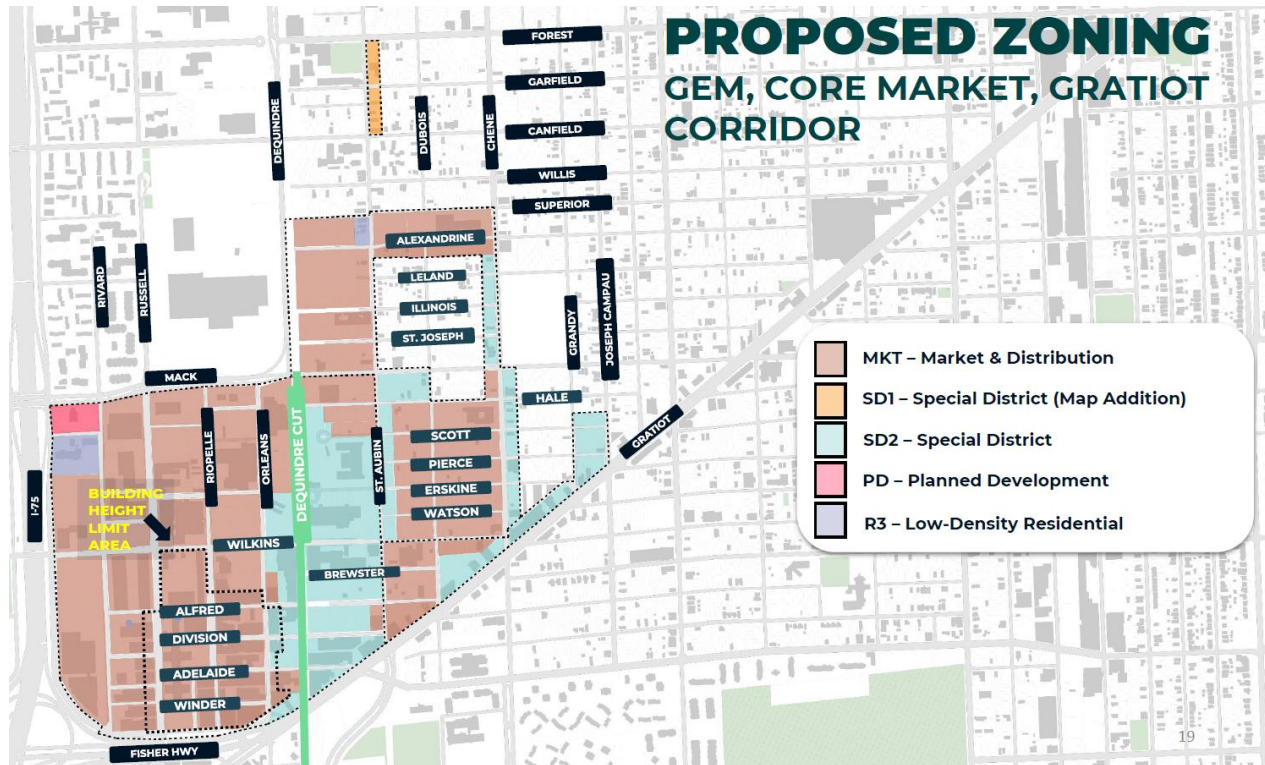
Lastly, as stated at the bottom of page 11 of the proposed ordinance, a prohibition on outdoor activities for designated marijuana consumption establishments has been added to the proposed amendment as follows:

- (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. **Outdoor activities shall be prohibited for designated marijuana consumption establishments.**



## Eastern Market

At both the August 29 DON Cast and August 31 CPC Forum, attendees were informed that as part of the CPC's consideration of the recent MKT district text amendment, the Commission previously directed staff to study the inclusion of marijuana uses within the Eastern Market area. Below is the proposed zoning map for this area, which has yet to be adopted by City Council.



Currently, no marijuana uses would be permissible in the proposed MKT district area indicated above in red. However, four uses would be permissible in the SD2 district indicated above: designated marijuana consumption establishments, marijuana microbusinesses, marijuana retail/provisioning facilities, and marijuana safety compliance facilities.

An informal request to CPC staff was recently made by one property owner within Eastern Market, who has stated that he has broad support by others, to permit marijuana uses within the MKT district and to provide reduced spacing requirements of 500 feet and/or a variance process to permit applicants to pursue marijuana business licensing within Eastern Market. Procedurally, CPC staff agrees that there are multiple steps that would be needed to permit marijuana uses within Eastern Market, these include: adding any desired marijuana uses as by-right/conditional uses within the MKT district and a substantial reduction to spacing requirements.

As the applicant has not identified a specific site or area where marijuana is desired, it is unclear what substantial spacing requirement reductions would be needed, but these reductions may be beyond just reductions to controlled use spacing and may include reductions to drug-free zone spacing and religious institution spacing, which would remain at 1,000 feet but would allow for administrative adjustments of up to two percent (20 feet). As staff has not been directed by the Commission or City Council to include marijuana uses within the MKT district or to substantially reduce spacing requirements beyond for controlled uses, the proposed text amendment does not include any language that would affect the MKT district as marijuana is not currently being

considered as a permissible use in the MKT district. If marijuana uses were added to the MKT district by City Council, only at that time would spacing requirements be of importance as marijuana uses would first need to be added to the MKT district for permissibility.

## **CONCLUSION**

If approved by City Council, the proposed amendments to the Zoning Ordinance will make it slightly easier to establish certain marijuana uses related to the retail sale and consumption of marijuana. Over time, this amendment may create a slight increase in the adult-use marijuana market, which has just opened within the City of Detroit as of August/September 2022 for certain uses. However, given the substantial amount of existing zoning regulations that would remain in place, including spacing requirements to drug-free zone uses and religious institutions, which exceed many, if not all, communities that permit marijuana uses within the State of Michigan, staff does not believe that the proposed amendments would be inappropriate or would significantly alter the zoning scheme that currently applies to the predominant marijuana uses present or proposed within the City of Detroit.

Based on the above analysis and consistent with the approval criteria of Section 50-3-49 of the Zoning Ordinance, CPC staff recommends **APPROVAL** of the rezoning request.

Attachment: Ordinance No. 2022-11  
August 4 Public Hearing Notice  
Marijuana Text Amd CPC Report 8/2/2022  
Community Engagement Notice  
Draft Marijuana Text Amendment Ordinance 9/7/2022

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