



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 10/24/22

**PREPARED BY:** Matt Lonnerstater, AICP

**AGENDA ITEM CONTENT:** CED Director - Zoning Text Amendment ZTA 22-02 [Ordinance 2188] - Caregiver Marihuana Grow Overlay District Amendment - Second Reading

**AGENDA ITEM SECTION:** Ordinances

**BUDGETED AMOUNT:** N/A

**FUNDS REQUESTED:** N/A

**FUND:** N/A

**EXECUTIVE SUMMARY:**

City staff proposes the attached text amendment [ZTA 22-02; Ordinance 2188] to limit primary caregiver marihuana grow operations to properties that are zoned M-1, Light Industrial, or M-2, Heavy Industrial, and located at a parcel identified within the Caregiver Marihuana Grow Overlay District.

**RECOMMENDATION:**

Staff recommends that City Council adopt Ordinance #2188 (ZTA # 22-02) upon second and final reading at their October 24th, 2022 meeting.



# MEMORANDUM

Date: October 13<sup>th</sup>, 2022  
CC Meeting: October 24<sup>th</sup>, 2022  
To: City of Madison Heights City Council  
From: Matt Lonnerstater, AICP – City Planner  
Subject: Zoning Text Amendment (22-02); Ordinance 2188 – Caregiver Marihuana Grow Overlay District – Second Reading

## Introduction

City staff proposes the attached text amendment to limit primary caregiver marihuana grow operations to properties that are zoned M-1, Light Industrial, or M-2, Heavy Industrial, and located at a parcel identified within the Caregiver Marihuana Grow Overlay District.

## Background

In 2019 and 2020, the City of Madison Heights adopted the Medical Marihuana Facilities and Adult-Use Marihuana Facilities ordinances. These marihuana ordinances explicitly restrict the establishment of medical and recreational marihuana facilities (Class C growers, processors, provisioning centers and retailers) to properties that are zoned M-1, Light Industrial, or M-2, Heavy Industrial and identified by an official map published by the city (referred to herein as the 'Allowed Parcels Map'). The Allowed Parcels Map, therefore, only includes parcels that have a base zoning district of M-1 or M-2.

Following the adoption of the Medical Marihuana Facilities and Adult-Use Marihuana Facilities ordinances and the associated Allowed Parcels Map, Madison Heights created a new zoning overlay district known as the Caregiver Marihuana Grow Overlay District. The Caregiver Overlay District allows for the establishment of individual registered marihuana caregivers on parcels identified within the associated Overlay District map. While the boundaries of the Caregiver Overlay District were intended to mirror that of the Allowed Parcels Map, the Overlay District map is technically a stand-alone map with separate zoning regulations. Currently, the Caregiver Overlay District text does not state that caregivers must be located within an underlying M-1 or M-2 district, but only that, *"a registered primary caregiver shall not cultivate medical marihuana at a parcel that is not located within the Caregiver Marihuana Grow Overlay District."* Therefore, it is possible for a property to be rezoned out of an industrial district and remain within the Caregiver Marihuana Grow Overlay District. A separate action and motion must be made to remove a property from the overlay district.

To ensure that marihuana primary caregivers only operate on properties with industrial zoning designations and to provide consistency between all three marihuana ordinances, staff recommends the attached minor zoning text amendment. The proposed text amendment states that registered primary caregivers shall be located within an M-1 or M-2 Industrial District and shall be located at a parcel identified within the Caregiver Marihuana Grow Overlay District.

### **Previous Action**

At their September 20<sup>th</sup>, 2022 meeting, the Planning Commission **recommended approval** of the proposed text amendment, as written.

City Council approved the Ordinance upon first reading at their October 10<sup>th</sup>, 2022 meeting and scheduled the second and final reading for the October 24<sup>th</sup>, 2022 meeting.

### **Next Step**

Based on the Planning Commission's recommendation, staff recommends that City Council adopt Ordinance #2188 (ZTA # 22-02) upon second and final reading at their October 24<sup>th</sup>, 2022 meeting.

**Ordinance No. 2188**  
**City of Madison Heights**  
**Oakland County, Michigan**  
**Zoning Text Amendment 22-02**

**An ordinance to amend Ordinance 571, being an ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights, by amending Appendix A, Section 10.350 – Caregiver Marihuana Grow Overlay District Requirements – to limit primary caregiver marihuana grow operations to properties that are zoned M-1, Light Industrial, or M-2, Heavy Industrial, and located at a parcel identified within the Caregiver Marihuana Grow Overlay District.**

The City of Madison Heights ordains:

**Section 1.      Section 10.350 – Caregiver Marihuana Grow Overlay District Requirements – is hereby amended to read as follows:**

The following standards and requirements shall apply to any location at which the cultivation of medical marihuana is conducted by a primary caregiver.

- (a) ~~A registered primary caregiver shall not cultivate medical marihuana at a parcel that is not located within the Caregiver Marihuana Grow Overlay District.~~ Registered primary caregivers authorized under this article shall be located in an M-1, Light Industrial, or M-2, Heavy Industrial zoning district and shall be located at a parcel that is identified within the Caregiver Marihuana Grow Overlay District.
- (b) The cultivation of medical marihuana by a caregiver shall comply at all times with the MMMA and the MMMA General Rules, as amended.
- (c) Not more than one registered primary caregiver shall be permitted to operate at any one parcel located with the Caregiver Marihuana Grow Overlay District.
- (d) The cultivation of medical marihuana by a primary caregiver shall be conducted entirely within an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to 12 marihuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marihuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA. The number of marihuana plants shall not exceed the number of marihuana plants permitted by the MMMA in total aggregate at any location or multiple locations whether located in the city or outside of the city.
- (e) No sign identifying the location by word, image or otherwise, or indicating that the cultivation of medical marihuana is taking place on the premises, shall be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.
- (f) Distribution of marihuana or use of items in the administration of marihuana shall not occur at or on the parcel where medical marihuana is cultivated. A qualifying patient shall not visit, come to, or be present at the parcel where

medical marihuana is cultivated to purchase, smoke, consume, obtain or receive possession of any marihuana.

- (g) No on-site consumption or smoking of marihuana shall be permitted within the parcel (or on the property) where medical marihuana is cultivated, except for lawful medical marihuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.
- (h) Medical marihuana shall not be grown, processed, handled or possessed at the location where medical marihuana is cultivated beyond that which is permitted by law.
- (i) A certificate of occupancy, together with a required site plan review, shall be obtained from the city and all necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marihuana are located or used.
- (j) If marihuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
- (k) Related merchandise or products shall not be sold or distributed from the property.
- (l) There shall be no exterior storage or parking of materials or equipment.
- (m) No nuisance shall be generated by any heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases or matters at any time.
- (n) The entire parcel and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official, fire official or law enforcement official during reasonable business hours.

## **Section 2. Repealer**

All ordinances or parts of ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

## **Section 3. Severability**

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

## **Section 4. Savings**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

**Section 5. Effective Date**

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

**Section 6. Enactment**

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and between 12:30 p.m. and 4:30 p.m. on regular business days.

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Roslyn Grafstein, Mayor

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Cheryl Rottmann, City Clerk

**CERTIFICATION:**

I, Cheryl Rottmann, the duly appointed City Clerk of the City of Madison Heights, County of Oakland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Madison Heights City Council at their Regular Meeting held on \_\_\_\_\_, 2022.

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Cheryl Rottmann, City Clerk

**ZOTXT 22-02 (Ordinance 2188)**

Planning Commission Public Hearing: September 20<sup>th</sup>, 2022

City Council First Reading: October 10<sup>th</sup>, 2022

City Council Second Reading: October 24<sup>th</sup>, 2022

Adopted: TBD

Published: TBD

Effective: TBD

## NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning Commission for the City of Madison Heights will hold a public hearing on **Tuesday, September 20<sup>th</sup>, 2022, at 5:30 p.m.** in the **Training Room of Fire Station #1 at 31313 Brush Street, Madison Heights, Michigan 48071** to consider the following text amendment:

### **Zoning Text Amendment 22-02**

An ordinance to amend Ordinance 571, being an ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights, by amending Appendix A (Zoning Ordinance), Section 10.350 – *Caregiver Marihuana Grow Overlay District Requirements*. The amendment aims to clarify that the cultivation of medical marihuana by a registered primary caregiver shall only take place on parcels with an underlying zoning designation of M-1, Light Industrial, or M-2, Heavy Industrial.

For further information, please contact the Community Development Department at (248) 583-0831. Please refer to the Agenda Center at <https://madisonheights-mi.municodemeetings.com/> for the posted agenda and any meeting updates.

### **Public Comment:**

Send your public comment through email at: [MaryDaley@Madison-Heights.org](mailto:MaryDaley@Madison-Heights.org) and your comment will be read at the meeting. Written comments may also be mailed prior to the meeting to 300 West Thirteen Mile Road, Madison Heights, Michigan, 48071. All comments will be heard at the public hearing.

City of Madison Heights  
Mary Daley  
Business Services Coordinator

Madison Park News 08/24/22



**CITY OF MADISON HEIGHTS**  
**PLANNING COMMISSION MEETING MINUTES (DRAFT)**

September 20, 2022  
Fire Station #1 – Training Room  
31313 Brush Street, Madison Heights, MI 48071

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**1. CALL TO ORDER**

Chair Champagne called the meeting of the Madison Heights Planning Commission to order at 5:32 p.m.

**2. ROLL CALL**

Present: Chairperson Josh Champagne  
Mayor Roslyn Grafstein  
City Manager Melissa Marsh  
Member Eric Graettinger  
Member Melissa Kalnasy  
Member Cliff Oglesby  
Member Grant Sylvester

Absent: Mayor Pro Tem Mark Bliss

Also Present: City Planner Matt Lonnerstater  
Assistant City Attorney Tim Burns  
Business Services Coordinator Mary Daley

**3. CHANGES TO THE AGENDA**

There were no changes to the agenda.

**4. APPROVAL OF MINUTES**

Motion by Commissioner Grafstein, seconded by Commissioner Marsh, to approve the minutes of the regular Planning Commission meeting of August 16, 2022.

Ayes: Graettinger, Grafstein, Kalnasy, Marsh, Oglesby, Sylvester, Champagne

Nays: None

Absent: Bliss

Motion carries unanimously.

**5. PUBLIC HEARING – Text Amendment ZTA 22-02: Caregiver Marihuana Grow Overlay District Amendments**

Chair Champagne opened the public comment period at 5:32 p.m. to receive comments for ZTA 22-02 Caregiver Marihuana Grow Overlay District Amendments. Seeing no public comments, the period was closed at 5:32 p.m.

Planner Lonnerstater provided an overview of the draft text amendment: This text amendment is a continuation of the discussion from the previous planning commission meeting. This is a text amendment



that limits primary caregiver marihuana grow operations to properties that are zoned M-1, Light Industrial, or M-2, Heavy Industrial, and located at a parcel identified within the Caregiver Marihuana Grow Overlay District.

When the initial Medical Marihuana Ordinance and Adult Use Marihuana Ordinances were adopted along with the Allowed Parcels Map (sometimes referred to as the Green Zone Map), they limited such facilities to properties zoned M-1 or M-2 and depicted on the Map. When the subsequent Caregiver Overlay District was passed, the boundaries of the district were intended to mirror that of the allowed parcels map of the original Marihuana ordinances. However, the Overlay District map is technically a stand-alone map with separate zoning regulations. As written the Caregiver Overlay District text does not state that caregivers must be located within an underlying M-1 or M-2 district.

The proposed text amendment states that registered primary caregivers shall be located within an M-1 or M-2 Industrial District and shall be located at a parcel identified within the Caregiver Marihuana Grow Overlay District, consistent with the text of the Medical Marihuana Ordinance and Adult Use Marihuana Ordinance.

Chair Champagne opened the floor up for discussion amongst the Commissioners.

Motion by Grafstein, seconded by Sylvester recommend approval and adoption of text amendment ZTA 22-02 to City Council.

Ayes: Graettinger, Grafstein, Kalnasy, Marsh, Oglesby, Sylvester, Champagne

Nays: None

Absent: Bliss

Motion carries unanimously.

## **6. EXCUSE ABSENT MEMBERS**

Motion by Commissioner Marsh, seconded by Commissioner Oglesby to excuse Commissioner Bliss.

Ayes: Graettinger, Grafstein, Kalnasy, Marsh, Oglesby, Sylvester, Champagne

Nays: None

Absent: Bliss

Motion carries unanimously.

## **7. PUBLIC COMMENTS: For items not listed on the agenda.**

Chair Champagne opened the public comment period at 5:41 p.m. to receive comments for items not on the agenda. Seeing no public comments, the period was closed at 5:41 p.m.

## **8. NEW BUSINESS: Updated Boards and Commissions Handbook**

The City Clerk has requested that each Commission member sign the top page of the newly updated Boards and Commissions Handbook stating that they received it and return it to Planner Lonnerstater no later than Friday, October 28<sup>th</sup>.

## **9. MEMBER UPDATES**

There were no member updates.

## **10. PLANNER UPDATES**

City Planner Lonnerstater noted that the Michigan Association of Planners conference will be on Mackinac Island on October 12<sup>th</sup>-14<sup>th</sup> if anyone is interested in attending. It is costly but very informative.

As far as the Ordinance rewrite, the Consultants are putting together the first draft and the Planning Commission will have the opportunity to review it and make comments, which will then proceed to the project steering committee.

Discussion ensued regarding fix-it stations for bicycles. The City is adding four of them at various parks after residents have requested them.

The Commission asked Planner Lonnerstater to provide updates at subsequent meetings regarding approvals of new Certificates of Occupancy and Site Plans.

#### **11. ADJOURNMENT OF MEETING**

Meeting adjourned by Chair Champagne at 5:51 p.m.