

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING ARTICLE 4 ZONING, DIVISION 4, ZONING DISTRICTS, SUBDIVISION 6,
BUSINESS DISTRICTS AND SUBDIVISION 7, INDUSTRIAL DISTRICTS, OF CHAPTER 42,
LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended as follows:

ARTICLE 4. ZONING, DIVISION 4, ZONING DISTRICTS, SUBDIVISION 6, BUSINESS DISTRICTS, B-3

Sec. 42-262. B-3 general business district, subsection B (16) shall be amended to read as follows:

- B. Principal permitted uses: In a B-3 general business district, no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:
16. The following marijuana businesses: Medical marijuana provisioning center as defined by the Medical Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act) and marijuana retailer as defined by the Michigan Regulation and Taxation of Act MCL 333.27951 et seq. (Adult-UseAct).
- a. A Medical marijuana provisioning center or marijuana retailer shall not be located:
- i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, charter vocational or secondary school or a public or private college, junior college or university, a public library, child daycare center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-262(B)(16)(g), within 1,000 feet of any other medical marijuana provisioning center or marijuana retailer located within the city.
- b. Determination of whether a proposed medical marijuana provisioning center or marijuana retailer will be located consistent with the provisions of subsection a. above will be made as follows:
- i. Whether a proposed medical marijuana provisioning center or marijuana retailer will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marijuana provisioning center or marijuana retailer as those lines existed on December 31, 2017, as shown on the records of the City of Portage in existence on that date.
 - ii. Measurements for purposes of subsections 42-262(B)(16)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the Medical marijuana provisioning center or marijuana retailer to the nearest point of the zoning lot occupied by any of the uses listed in subsection 42-262(B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another Medical marijuana provisioning center or

marijuana retailer using an uninterrupted straight line without regard to intervening structures or objects and using the boundary lines of the zoning lots as they existed on December 31, 2017, as shown on the records of the city in existence on that date.

- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the distribution, and sale of marijuana and marijuana-infused products by a medical marijuana provisioning center or marijuana retailer shall comply with all State of Michigan Construction Codes (building, electrical, plumbing, and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marijuana provisioning centers and marijuana retailers shall not be located within greenhouses and similar buildings.
- d. All medical marijuana provisioning centers and marijuana retailers must be at a fixed location. Mobile medical marijuana provisioning centers and marijuana retailers are prohibited. Sale or transfer of marijuana products by internet or mail order, consignment, or at wholesale by a medical marijuana provisioning center or marijuana retailer is prohibited. This provision shall not be construed to prohibit sale or transfer of marijuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-Use Act, nor to prohibit home delivery of marijuana products as may be permitted by law. *Drive through windows and other contactless delivery methods may be authorized subject to all applicable zoning and building code regulations.*
- e. No marijuana or marijuana-infused products may be used or consumed on the premises of a medical marijuana provisioning center or marijuana retailer.
- f. The activities and operations of a medical marijuana provisioning center or marijuana retailer shall be indoors within a building and out of public view.
- g. A medical marijuana provisioning center and a marijuana retailer may be located in a B-3 zone at the same location consistent with the Adult-Use Act and rules. The medical marijuana provisioning center or marijuana retailer located at the same location shall be partitioned from each other, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by each marijuana business. If a medical marijuana provisioning center or marijuana retailer is located in a multi-tenant building with any other activity or business, the medical marijuana provisioning center or marijuana retailer shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marijuana provisioning center or marijuana retailer.
- h. The business and operations of all medical marijuana provisioning centers and marijuana retailers shall comply at all times with applicable state laws and regulations, and this Code of Ordinances.

All other parts of Section 42-262 remain unchanged.

ARTICLE 4. ZONING, DIVISION 4, ZONING DISTRICTS, SUBDIVISION 7, INDUSTRIAL DISTRICTS I-1 LIGHT INDUSTRIAL AND I-2 HEAVY INDUSTRIAL

Sec. 42-280. I-1 light industrial district subsection B (21) *shall be amended to read as follows:*

B. Principal permitted uses: In an I-1 light industrial district, no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:

21. The following marijuana businesses: Medical marijuana class A, B, and C grow facilities, stacked class C grow facilities, and medical marijuana processor facilities as those facilities are defined by the Medical Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marijuana class A, B, and C grow establishments, *stacked class C grow facilities*, *marijuana* processor establishments, and marijuana microbusinesses as those establishments are defined by the Michigan Regulation and Taxation of Act MCL 333.27951 et seq. (Adult-Use Act). A medical marijuana provisioning center and marijuana retailer may also be permitted in this district if combined with a medical marijuana grow facility, marijuana grow establishment, medical marijuana processor facility, marijuana processor establishment, or a combination thereof as provided in section 42-280 (B)(21)(g).

- a. All marijuana businesses permitted by this section shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child daycare center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-280(B)(21)(g), within 1,000 feet of any other marijuana business permitted by this section or section 42-281(7).
- b. Determination of whether a proposed marijuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed marijuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the marijuana business as those lines existed on December 31, 2017, as shown on the records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-280 (B)(21)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by a marijuana business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 43-280 (B)(21)(a)(ii), or to the nearest point of the zoning lot occupied by another marijuana business permitted by this section or section 42-281(7) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, processing, distribution, or sale of marijuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing, and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All marijuana businesses permitted by this section must be at a fixed location. Mobile facilities are prohibited. Sale or transfer of marijuana

products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marijuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-Use Act, nor to prohibit home delivery of marijuana products as may be permitted by law. *Drive through windows and other contactless delivery methods may be authorized for a medical marijuana provisioning center and marijuana retailer, if such marijuana business is permitted in this zoning district, subject to all applicable zoning and building code regulations.*

- e. No marijuana or marijuana infused products may be used or consumed on the premises of a marijuana business permitted by this section.
- f. Marijuana businesses permitted by this section shall conduct the activities of the marijuana business, including, without limitation, the cultivating, growing, processing, manufacturing, storage or sale and distribution of marijuana and marijuana infused products, and all materials used in connection with the cultivating, growing, processing, and distribution of marijuana and marijuana infused products indoors and out of public view.
- g. Medical marijuana grow facilities, marijuana grow establishments, medical marijuana processor facilities, marijuana processor establishments, medical provisioning centers, and marijuana retailers may be located as separate businesses at the same location in any combination, except that a medical marijuana provisioning center and marijuana retailer are only allowed in this district if combined with a medical marijuana grow facility, marijuana grow establishment, medical marijuana processor facility, marijuana processor establishment, or a combination thereof. Each marijuana business that is located in the same location shall be partitioned from any other marijuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marijuana business. No more than one marijuana microbusiness shall be allowed on a single zoning lot or at the same location as another marijuana business permitted by this section, and no more than one marijuana business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a marijuana business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marijuana business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marijuana business.
- h. The business and operations of all marijuana businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.

All other parts of Section 42-280 remain unchanged.

Sec. 42-281. I-2 heavy industrial district subsection B (7) shall be amended to read as follows:

- B. Principal permitted uses: In an I-2 heavy industrial district, no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:

7. The following marijuana businesses: Medical marijuana class A, B, and C grow facilities, medical marijuana stacked class C grow facilities, and Medical marijuana processor facilities as those facilities are defined by the Medical Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marijuana class A, B, and C grow establishments, marijuana processor establishments, and marijuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of Act MCL 333.27951 et seq. (Adult-Use Act). A Medical marijuana provisioning center and marijuana retailer may also be permitted in this district if combined with a medical marijuana grow facility, marijuana grow establishment, medical marijuana processor facility, marijuana processor establishment, or a combination thereof as provided in section 42-281 (B)(7)(g).
 - a. All marijuana businesses permitted by this section shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park, or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-281(B)(7)(g), within 1,000 feet of any other medical marijuana or marijuana business permitted by this section or section 42-281(21).
 - b. Determination of whether a proposed medical marijuana or marijuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marijuana or marijuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marijuana or marijuana business as those lines existed on December 31, 2017, as shown on the records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-281(B)(7)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the Medical marijuana or marijuana business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another Medical marijuana or marijuana business permitted by this section or section 42-280(22) using an uninterrupted straight line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
 - c. Buildings or structures for the growing, production, processing, distribution, or sale of marijuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing, and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
 - d. All marijuana businesses permitted by this section must be at a fixed location. Mobile facilities are prohibited. Sale or transfer of marijuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marijuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-Use Act, nor to prohibit home delivery of marijuana products as may be permitted by law. *Drive through windows and other contactless delivery methods may be authorized for a medical marijuana provisioning center and*

marijuana retailer, if such marijuana business is permitted in this zoning district, subject to all applicable zoning and building code regulations.

- e. No marijuana or marijuana infused products may be used or consumed on the premises of a marijuana business permitted by this section.
- f. Marijuana businesses permitted by this section shall conduct the activities of the business, including, without limitation, the cultivating, growing, processing, manufacturing, storage, sale or distribution of marijuana and marijuana infused products, and all materials used in connection with the cultivating, growing, processing and sale or distribution of marijuana and marijuana infused products indoors and out of public view.
- g. Medical marijuana grow facilities, marijuana grow establishments, Medical marijuana processor facilities, marijuana processor establishments medical provisioning centers, and marijuana retailers may be located as separate businesses at the same location in any combination, except that a Medical marijuana provisioning center and marijuana retailer are only permitted in this district if combined with a Medical marijuana grow facility, marijuana grow establishment, Medical marijuana processor facility, marijuana processor establishment, or a combination thereof. Each marijuana business that is located in the same location shall be partitioned from any other marijuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marijuana business. No more than one medical marijuana microbusiness shall be allowed on a single zoning lot or at the same location as another marijuana business allowed by this section, and no more than one marijuana business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a marijuana business permitted by this section is located in a multi-tenant building with any other activity or business, the marijuana business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marijuana business.
- h. The business and operations of all medical marijuana businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.

All other parts of Section 42-281 remain unchanged.

Sec. 42-523. Schedule of off-street parking requirements *shall be amended to read as follows:*

SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

| Use | Minimum # of Spaces | Remarks |
|--|---|--|
| One-family and two-family residences | 2/dwelling unit | — |
| Residential and multi-family residences | 2/dwelling unit | — |
| Housing for the elderly Senior adult housing Congregate care facility; Assisted living; and Convalescent/nursing home | 1.5/dwelling unit 1/2 units plus 1/employee in the largest working shift | If units revert to general occupancy, then 2 spaces/unit shall be provided |
| Manufactured Home Community | 2/site plus 1/employee | — |
| Religious institutions | 1/3 seats or 6 ft. of pews in main unit of worship | — |

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|--|---|--|---|
| | Health facilities Hospitals Immediate medical care clinic | 2 spaces per bed 2/exam room plus 1/employee | — |
| | Private elementary and junior high schools | 1/teacher, employee or administrator or requirements for auditorium, whichever is greater | — |
| | Private senior high schools | 1/teacher, employee, or administrator and 1/10 students, or requirements for auditorium, whichever is greater | — |
| | Private clubs and lodge halls | 1/3 persons allowed within the maximum occupancy load | Maximum occupancy load established by local, county or state fire, building or health codes |
| | Swimming pool clubs, tennis clubs and other similar uses | 1/2 member families or individuals | — |
| | Public and private golf courses, except miniature or par 3 course | 6/hole plus 1/employee | — |
| | Fraternities and sororities | 1/5 permitted active members, or 1/2 beds (whichever is greater) | — |
| | Stadiums, sports arenas or similar places or outdoor assembly | 1/3 seats or 6 ft. of benches | — |
| | Theaters and auditoriums | 1/3 seats plus 1/2 employees | — |
| | Planned commercial shopping centers in a business district with a GLA greater than 100,000 sq. ft. | 4/1000 sq. ft. of GLA | — |
| | Car washes (automatic) | 1/employee plus stacking spaces equal to 5 times the maximum capacity of the car wash | Maximum capacity of the wash means the greatest number of vehicles possible undergoing some phase of washing at the same time. Determined by length of wash line (ft.)/20 ft. |

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|--|--|---|---|
| | Carwashes (self-service and/or coin-operated) | 2 plus 1 for each employee and 1 for each vacuum station or similar area | — |
| | Beauty parlors or barbershops | 3/first 2 chairs, plus 1½ for each additional chair | — |
| | Day spa | 1/150 sq. ft. of UFA | |
| | Bed and breakfasts | 2 plus 1/guest room | — |
| | Bowling alleys | 5/lane | — |
| | Dancehalls, pool or billiard parlors, roller or skating rinks, exhibition halls and assembly halls without fixed seats | 1/3 persons allowed within the maximum occupancy load | Maximum occupancy load established by local, county or state fire, building or health codes |
| | Restaurants that provide waiter/waitress service to the table but no drive-thru or in-car service. | 1/60 sq. ft. of UFA | — |
| | Fast food restaurants that provide for table areas inside and drive-thru service but do not provide waiter/waitress service to the table or in-car service. | 1/40 sq. ft. of UFA plus 3 stacking spaces between the window and menu board and 3 stacking before the menu board | — |
| | Fast food restaurants that provide take-out service (walk-up window or drive-thru service) with no or limited inside table area. | 1/25 sq. ft. of UFA plus 3 stacking spaces between the window and menu board and 3 stacking spaces before the menu board. | |
| | Fast food restaurants that provide in-car service. | In addition to the parking space at each menu board, 1/each employee in the largest working shift. | — |
| | Furniture, appliance, and household equipment repair shops; showrooms of plumbers, decorators, electricians, or similar tradesmen; shoe repair; and other similar uses | 1/800 sq. ft. of UFA; Floor area used in processing 1 additional/2 employees | — |
| | Auto repair facility | 2/ stall, rack, or pit plus 1/employee | — |
| | Vehicle fueling station | 1/fuel nozzle plus 1/200 UFA of retail floor area | — |
| | Laundromats and coin-operated dry cleaners | 1/2 machines | — |
| | Miniature and par 3 golf courses | 3/hole plus 1/employee | — |
| | Mortuary establishments | 1/50 sq. ft. of UFA | — |
| | Motels, hotels, and other commercial lodging establishments | 1/occupancy unit plus 1/employee | — |
| | Motor vehicle sales and service establishments | 1/200 sq. ft. of UFA or sales room plus 1/auto service stall in service room. | — |
| | Retail stores, except as otherwise specified earlier | 1/200 sq. ft. of UFA | — |

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|--|---|--|---------------------------|
| | Marijuana provisioning center, adult use retailer and/or microbusiness that provides drive-thru service | 3 stacking spaces before the drive thru window | |
| | Banks | 1/200 sq. ft. of UFA plus 1/employee and 3 stacking spaces per drive-thru facility | — |
| | Professional offices of doctors, dentists and similar professionals, clinics | 1/150 sq. ft. of UFA | — |
| | Business and professional offices, except as indicated in the previous use | 1/200 sq. ft. of UFA | — |
| | Industrial and research establishments and related accessory offices | 5 plus 1½ per employee in largest work shift | — |
| | Wholesale establishments and related accessory offices | 5 plus 1/employee in largest work shift, or 1/1700 sq. ft. of UFA (whichever is greater) | — |
| | General or specialized agriculture | 2 plus 1 per 1½ employees in largest work shift | Excludes seasonal workers |
| | Industrial agriculture | 5 plus 1 per 1½ employees in largest work shift | Excludes seasonal workers |

(Ord. No. 03-01 (Exh. A, § 42-613), 2-18-2003; Ord. No. 08-05, 7-22-2008; Ord. No. 16-11, 10-18-2016)

All other parts of Section 42-523 remain unchanged.
Offices

Dated: ---- _____

Patricia M. Randall, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, Erica Eklov, do hereby certify that I am the duly appointed City Clerk of the City of Portage, and that the foregoing ordinance was adopted by the City of Portage on the 23rd day of May 2023.

Erica Eklov, City Clerk