

**ORDINANCE NO. 2023 - 02**

**AN ORDINANCE TO AMEND ZONING ORDINANCE, SECTIONS  
10-240 AND 10-643 AND ADDING SECTION 10-264 -  
MARIJUANA ESTABLISHMENTS**

The City of Harper Woods Ordains:

**SECTION 1.**

Section 10-240 Provisions for Specific Uses, Intent and Scope.

Each use listed in Sections 10-241 through 10-264, whether permitted by right or subject to approval as a special land use, shall be subject to the site development standards specified, in addition to applicable standards and requirements for the district in which the use is located. These standards are intended to alleviate the impact from a use that is of an area, intensity or type, or that possesses characteristics that are unique or atypical for the district in which the use is allowed. These standards are intended to assure that such uses will be compatible with surrounding land uses and ensure the orderly development of the district. Conformance with these standards shall be subject to site plan review. Unless otherwise specified, each use listed in this Article shall be subject to all applicable yard, bulk and other standards for the district in which the use is located.

**SECTION 10-264 • Marijuana Establishments**

Marijuana retailers shall conform and be subject to the following:

**A. Definitions.**

As used in this ordinance, the definitions described in Section 12-451 of the Harper Woods City Code shall apply to marijuana establishments.

**B. Permitted and Prohibited Facilities**

**1. Permitted Facilities.** Only the following listed marijuana establishments shall be allowed to be located within the City of Harper Woods after receiving site plan and special land use approval as indicated in Section 10-770 Special Land Uses.

a. Marijuana Retailer

**2. Permitted Shared Facilities.** Any permitted marijuana establishment may be allowed to operate in the same building housing another permitted marijuana establishment provided it is constructed and operated in compliance with all State and City of Harper Woods requirements for the shared use of permitted marijuana establishments. Permitted marijuana establishments may be allowed to occupy more than one building on the same lot provided the facility and buildings are operated in compliance with all State and City of Harper Woods requirements.

**3. Prohibited Facilities**

a. **Mixed-Use Prohibited.** No other principal use, special land use or accessory use shall be permitted or continue to operate on the same lot, parcel or unit upon which a marijuana establishment is located and operated upon.

b. **Home Occupations and Accessory Use Prohibited.** A marijuana establishment, or activities associated with the facility, shall not be permitted as a home occupation or accessory use.

c. **Other Marijuana Establishments Prohibited.** Any marijuana establishment or event not specifically listed as a permitted facility within Section 10-264(B)(1) shall be prohibited within the City of Harper Woods.

### **C. Location**

Marijuana establishments permitted to be located within the City of Harper Woods shall adhere to the following location requirements:

a. **Child Care Facilities, Schools, and Similar Facilities Buffer.** All lots containing a marijuana establishment must be located at least **1,000 feet** from the nearest lot line of any child care center or licensed day care facility licensed by the State of Michigan Department of Licensing and Regulatory Affairs and **1,000 feet** from the nearest preschool program center, primary, intermediate or secondary school, or like facility, established pursuant to and in accordance with the Revised School Code, P.A. 451 of 1976, being M.C.L.A. §§ 380.1 through 380.1853, as amended, and/or the State School Aid Act of 1979, P.A. 94 of 1979, being M.C.L.A. §§ 388.1601 through 388.1772, as amended.

b. **Marijuana Establishments Buffer.** All lots containing a marijuana establishment must be located at least **1,500 feet** from any other lot containing a marijuana establishment, measured from the nearest lot line of the marijuana establishment to the nearest lot line of any other marijuana establishment.

c. **Permitted Districts.** A marijuana establishment shall be permitted as a special land use on parcels whose front lot line is the Kelly Road or Harper Avenue right-of-way line and are located in the C-1 General Business or C-2 Special Business zoning districts.

### **D. Use Requirements.**

a. **State and Local Licensing and Registration.** At the time of application for a special land use permit, the marijuana establishment must provide proof to the City of Harper Woods that the applicant has received pre-qualification to be licensed by the Marijuana Regulatory Agency of the State of Michigan, or its designated successor. Upon approval of a special land use permit, all owners, possessors, occupants, partnerships, corporations, and/or employees shall at all times be in compliance with the laws of the State of Michigan and ordinances of the City of Harper Woods.

b. **Hours of Operation.** All marijuana establishments must provide the City of Harper Woods administration and Chief of Police with the hours of operation of the facility, must provide revised hours if adjusted within 48 hours of a change and must provide such information if requested by the City of Harper Woods. Marijuana retail establishments are permitted to be open to the public between the hours of 9:00 a.m. and 10:00 p.m.

c. **Separation.** The public or common areas of the retail facility must be separated from restricted or non-public areas of the establishment with permanent, constructed walls.

d. **Security Requirements.** All marijuana establishments must have an adequate security plan to prevent access to marijuana by non-authorized personnel, including unauthorized removal of any marijuana. All security plans shall be approved by the State and the City of Harper Woods prior to the operation of any marijuana establishment.

e. **Indoor Activity Only.** All marijuana establishment activities shall be conducted within an enclosed structure. All outdoor storage is prohibited.

f. **Drive-Through Prohibited.** Drive-through windows on the premises of a marijuana establishment shall not be permitted.

g. **Obscuring Wall.** An obscuring wall five (5) feet in height shall be provided along all property lines abutting property that is zoned for residential, commercial, or office use, except that no wall shall form an obstruction of visibility from the street, as regulated by Section 10-228.B, Obstruction of Visibility from Street.

h. **Site Circulation.** All maneuvering areas, stacking lanes, and exit aprons shall be located on the parcel containing the marijuana establishment. Streets and alleys shall not be used for maneuvering or parking by vehicles accessing the marijuana establishment.

i. **Parking.** Any proposed off-street parking intended to be utilized for carry-out or pre-order service shall not be counted toward the provision of off-street parking required by Section 10-421. The applicant must provide proposed operational details to demonstrate to the Planning Commission that the proposed provision of off-street parking will accommodate the off-street parking demand, including but not limited to demand from all staff (including on-site security) and anticipated peak customer traffic.

j. **Traffic Impact Study.** A traffic impact study, in accordance with Section 10-484, may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

k. **Nuisance Prohibited.** No marijuana establishment shall be operated in a manner creating dust, fumes or odors detectable to normal senses beyond the boundaries of the property on which the marijuana establishment is operated.

#### **E. Standards for Marijuana Retailer Approval**

To receive approval from the City of Harper Woods, a marijuana establishment shall submit and provide all information required in zoning ordinance, Section 10-264, Marijuana Establishments and shall be determined to be in compliance with all standards for granting Special Land Use Approval in Section 10-770 Special Land Uses, of the zoning ordinance.

#### **AMEND SECTION 10-643 AS FOLLOWS:**

Section 10-643 District C-1 -Special Land Uses.

I. Adult-Use Marijuana establishments, subject to the provisions of Section 10-264.

#### **AMEND SECTION 10-653 AS FOLLOWS:**

Section 10-653 District C-2 -Special Land Uses.

I. Adult-Use Marijuana establishments, subject to the provisions of Section 10-264.

## **Section 2. Severability.**

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

## **Section 3. Conflict.**

In the event of a conflict between a provision of this Ordinance and any other portion of the City Code of Ordinances, the provisions of this Ordinance shall prevail.

## **Section 4. Effective Date.**

This Ordinance shall become effective ten (10) days after being published in a newspaper of general circulation within the City of Harper Woods.

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Valerie Kindle, Mayor

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Leslie M. Frank, City Clerk

INTRODUCTION AND ADOPTION: July 10, 2023

PUBLISHED: July 20, 2023

EFFECTIVE DATE: July 30, 2023

AMENDED DATE: August 17, 2023

PUBLISHED: August 24, 2023

EFFECTIVE DATE: September 4, 2023

## **CERTIFICATION**

I, Leslie M. Frank, City Clerk of the City of Harper Woods, Wayne County, State of Michigan, do hereby certify that the foregoing is a true and accurate copy of an Ordinance adopted by the City of Harper Woods City Council at their Special Council meeting on August 17, 2023.

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Leslie M. Frank, City Clerk  
City of Harper Woods