



## **Planning Commission**

Mark Piotrowski, Chairperson  
Wilbert Fobbs III  
Jason Hammond  
Charito Hulleza  
Bruce Kantor  
Les Stansbery  
Anna Thompson

**CITY OF LATHRUP VILLAGE  
PLANNING COMMISSION AGENDA  
Tuesday, January 19, 2021  
7:00 p.m.**

**REGULAR MEETING - HELD REMOTELY**

- 1. Call to order and Pledge of Allegiance**
- 2. Roll Call**  
*Commissioners must announce they are attending the meeting remotely and indicate the city, county, and state in which they are located (i.e. Lathrup Village, Oakland County, Michigan)*
- 3. Approval of Agenda**
- 4. Approval of meeting minutes**
  - a. Regular Meeting – December 15, 2020
- 5. Public Comment – regarding items not listed on the agenda**
- 6. Election of Officers**
- 7. New Business**
  - a. 2020 Planning Commission Annual Report
  - b. Comprehensive Plan: Access Management Plan discussion
  - c. Zoning Amendments – Primary Caregiver Facilities discussion
  - d. Set public hearing date – Zoning Amendments – Primary Caregiver Facility
  - e. Cannabis discussion – feedback on draft language
- 8. Old Business and Tabled Items - none**
- 9. Other Matters for Discussion**
- 10. General communication**
  - a. Legal Update
  - b. Planning Update
  - c. Staff Update
- 11. Adjournment**

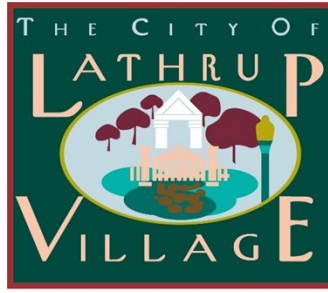
**ZOOM MEETING**

<https://zoom.us/j/99661743524?pwd=b2ZSWU5XSIRyQU12OWpZSlhQZm9kUT09>

Meeting ID: 996 6174 3524

Passcode: 435623

Telephone: 1 312 626 6799 or +1 646 558 8656



A HERITAGE OF GOOD LIVING

**NOTICE OF ELECTRONIC PUBLIC MEETING  
CITY OF LATHRUP VILLAGE  
PLANNING COMMISSION**

Meeting – Tuesday, January 19, 2021  
7:00pm

Due to the Emergency orders issued by the Michigan Department of Health and Human Services, Oakland County, and local officials and in accordance with Senate Bill 1108, which allows for electronic meetings of public bodies, notice is hereby given that the City of Lathrup's Planning Commission will be meeting electronically using Zoom for videoconference and public access.

This meeting is a regular meeting.

The electronic public meeting will be held as a Zoom electronic webinar. The public, including those with disabilities, can participate via the Zoom application, internet and/or telephone. The public will be able to listen to all discussion by Planning Commission members and will be permitted to speak for up to 3 minutes during the public comment section of the agenda.

Please note that callers/viewers will automatically be muted. Public comments can be submitted via the Chat Room or during Public Comment, when viewers are unmuted on an individual basis. Comments may also be emailed in by 12 noon of the date of the meeting to:

[cityclerk@lathrupvillage.org](mailto:cityclerk@lathrupvillage.org),

**ZOOM MEETING SIGN IN INFORMATION**

To join the webinar:

<https://zoom.us/j/99661743524?pwd=b2ZSWU5XSIRyQU12OWpZSlhQZm9kUT09>

Webinar ID: 996 6174 3524

Passcode: 435623

Telephone: 646 558 8656 or 301 715 8592

At 7:01 p.m. the Regular meeting was called to order by Chair Piotrowski on Tuesday, December 15, 2020 remotely via Zoom.

Commissioner Present: Mark Piotrowski, Chair  
Jason Hammond, Vice Chair  
Anna Thompson, Secretary  
Wilbert Fobbs, III, Resident (Absent)  
Charito Hulleza, Resident  
Bruce Kantor, City Council Liaison  
Les Stansbery, Resident

All Commissioners who were present announced they are in Lathrup Village, Michigan, Oakland County with the exception of Anna Thompson who is located in Ann Arbor, Michigan, Washtenaw County.

Staff Present: Dr. Sheryl Mitchell, City Administrator, Susie Stec, Community and Economic Development Manager, Yvette Talley, City Clerk

Also Present: Scott Baker, City Attorney, Jill Bahm & Sri Ravali Komaragiri, Giffels Webster

All present joined in the Pledge of Allegiance.

**PC-65-20 APPROVAL OF AGENDA**

Motion by Commissioner Hammond, seconded by Commissioner Stansbery to approve the agenda.

Yes: Fobbs, Hammond, Hulleza, Kantor, Piotrowski, Stansbery, Thompson

No: None

Motion carried.

**PC-66-20 MINUTES OF STUDY SESSION – OCTOBER 20,2020**

Motion by Commissioner Stansbery, seconded by Commissioner Kantor to approve the Study Session minutes for October 20, 2020.

Yes: Fobbs, Hammond, Hulleza, Kantor, Piotrowski, Stansbery, Thompson

No: None

Motion carried.

**PC-67-20 MINUTES OF REGULAR MEETING OCTOBER 20, 2020**

Motion by Commissioner Stansbery, seconded by Commissioner Hammond to approve the minutes of the Regular Meeting of October 20, 2020.

Yes: Fobbs, Hammond, Hulleza, Kantor, Piotrowski, Stansbery, Thompson

No: None

Motion carried.

**PC-68-20**                      **MINUTES OF JOINT CITY COUNCIL-DOWNTOWN DEVELOPMENT AUTHORITY-  
PLANNING COMMISSION HELD ON NOVEMBER 30, 2020**

Motion by Commissioner Hammond, seconded by Commissioner Stansbery to approve the November 30, 2020 minutes of the Joint City Council-Downtown Development Authority-Planning Commission.

Yes: Fobbs, Hammond, Hulleza, Kantor Piotrowski, Stansbery, Thompson

No: None

Motion carried.

**PC-69-20**                      **PUBLIC COMMENTS**

None

**PC-70-20**                      **NEW BUSINESS – PUBLIC HEARING R-1 DISTRICT AMENDMENT, PARKING AS  
SPECIAL LAND USE**

Jill Bahm and Sri Ravali Komaragiri gave an overview and answered specific questions. Discussed parking alternatives on Southfield Rd because of recognizing factors that limit redevelopment are the depth of the lots. Some alternatives are: street parking can occur within 500 ft. of commercial use, shared parking between uses with different peak operating times, on street parking in public right-of-way to satisfy 25% of the required number of spaces. Planning Commission can reduce some of the required parking that is provided on site and City Council can license public alleys adjacent to commercial uses for parking. Discussed- architecture standards- asking for redevelopment to be of high quality. In the R-1 district where parking can be expanded 1. share a lot line abutting the mixed -use district 2. adjacent to a public alley adjacent to a mixed- use district, 3. R-1 parcel that is developed as a parking lot and is 150 ft. of Southfield Rd. right-of-way. The goal is to create the buffer to protect residential property, set back, screen wall of evergreen trees, one entrance into parking lot is allowed unless Planning Commission allows a second entrance.

Chair Piotrowski opened the public hearing for comments. There were no public comments.

Motion by Commissioner Hammond, seconded by Commissioner Stansbery to approve the update zoning amendments 4.16- 3. To read maximum of one entry way to parking lot additional entrance way subject to Planning Commission approval provided that the applicant demonstrate that the additional entry ways will improve site circulation and does not impact the adjacent residential properties. 6b. the 10ft. set back area between the screen wall and residential property shall be landscaped with a row evergreen trees. The type of planting minimum size and spacing requirements shall be subject to approval of the Planning Commission and the parking area set-back with a minimum 8ft. from the street right-of-way be recommended to City Council for approval.

Yes: Fobbs, Hammond, Hulleza, Kantor, Piotrowski, Stansbery, Thompson

No: None

Motion carried.

**PC-71-20**                      **Site Plan Review – 27215 Southfield Road (Life Center Adaptive Reuse)**

Ramil Yusubov – property owner – This will be a holistic life center introducing holistic ways of healing. Lonny Zimmerman – Architect gave an overview and answered specific questions. No external changes to the building other than an addition of an exit door which will lead to the MRI facility and

reconstruction of the entrance facing the back part of the building. Discussed – Site changes, MRI Truck-hours of operation, noise levels, parking lot design, parking space access conflict, required parking, loading, traffic and circulation, existing curb cuts, waste & rubbish, landscaping & screening, screen wall, (a letter was shared from Christopher Jones owner of adjacent property). He is opposed to the screen wall), setbacks, outdoor lighting, truck lighting.

Site Plan comments: The existing water service from the building to the public water supply has been checked and its copper. Right of way is able to support a future Mobile MRI. They will prepare drawings to support the expansion is designed per city requirements.

Discussed – potentially the goal is to remove the mobile MRI truck once he has generated enough business.

Sri stated items to that need further discussion/clarification - Hours of operation, when will the truck access the site, screen wall, loading.

Ramil Yusubov stated hours of operation 7:00 a.m.-8:00 p.m. or 9:00 p.m. – 2-3 days per week. Screen wall he's willing to comply with the city's requirements and work with the neighbor's concerns. Zoning Board of Appeals will have to decide on a variance relevant to this matter. Parking/ADA parking compliance, stairs, position of the MRI truck on the pad can accommodate the needed clearances with free movement around the mobile truck for cars parking can function appropriately. Lighting – will only face the building. Conditions for approval - Repairs needed: Curbs that need to be replaced, truck noise, daily trash pick-up, weed control, southern most cut on Southfield Rd to be closed off, close the approach, owner would like to leave the approach open but will place a cement block there, repair railroad tie.

Motion by Commissioner Kantor, seconded by Commissioner Hammond to approve the site plan as presented with the following contingencies; appropriate screen wall, following the existing zoning ordinance or a variance granted via the Zoning Board of Appeals, three cubs repaired, daily trash pickup, appropriate landscaping, repair railroad ties so they stay in place , weed control, close South entrance/ exit off Southfield Road with a decorative planter or blocking mechanism placed at the edge of Southfield Road or at the westside of the sidewalk depending on what's permitted.

Yes: Fobbs, Hammond, Hulleza, Kantor, Piotrowski, Stansbery, Thompson  
No: None  
Motion carried.

#### **PC-72-20                      2021 Planning Commission Calendar of Regular Meetings**

Discussed - 2021 Calendar for Planning Commission meetings dates.

Motion by Commissioner Hammond, seconded by Commissioner Stansbery to approve the 2021 regular meetings of the Planning Commission.

Yes: Fobbs, Hammond, Hulleza, Kantor, Piotrowski, Stansbery, Thompson  
No: None  
Motion carried.

**PC-73-20**                      **OLD BUSINESS AND TABLED ITEMS**

None

**PC-74-20**                      **OTHER MATTERS FOR DISCUSSION**

Commissioner Hulleza asked about her term ending date.

Terms of the Planning Commissioners:

Charo Hulleza - May 21, 2021

Jason Hammond – May 21, 2021

Bruce Kantor – November 2021

Will Fobbs III - February 27, 2023

Mark Piotrowski - March 1, 2022

Les Stansbery - March 1, 2022

Anna Thompson - March 1, 2022

**PC-75-20 GENERAL COMMUNICATION AND CORRESPONDENCE**

a. Legal Update

Scott Baker stated – he is awaiting feedback from the Planning Commissioners relevant to the draft ordinance of the Recreational/Medical Marijuana licensing.

a. Planning Update

None

b. Administration Update

Susie Stec reported – there is a brochure included in each packet regarding Martin Luther King Day celebration – having a city- wide food drive December 14, 2020- January 18, 2021- drop off location at city hall and 4 other businesses will be identified as drop – off locations. Jan 8<sup>th</sup> and January 16<sup>th</sup> fill the truck event will take place to benefit lighthouse. There will be a community experience journal with video submissions, written word and art. DDA- winter market has been cancelled but business bingo is still going on until Monday, December 21, 2020, let's support our local businesses.

Kantor – Infrastructure update – completed draft to City Council for a Capital Improvement Bond to improve and fund – lead lines, identifying lead lines in the city - every home has to be checked, water loss issues due to aging water meters, televised 30,000 ft. of sewer system will budget \$500,000 of repairs over the next 4 years, sanitary retention tank is need of repair, watermain replacement, fire hydrants in need of repair. This recommendation will go before City Council December 21, 2020.

**PC-76-20**                      **ADJOURNMENT**

Motion by Commissioner Hammond seconded by Commissioner Kantor to adjourn this meeting.

Motion carried.

The meeting adjourned at 9:12 p.m.

Submitted by Yvette Talley  
Recording Secretary



## 2020 PLANNING COMMISSION ANNUAL REPORT

January 2021

Prepared with Assistance by:

giffels   
webster



# 2020 PLANNING COMMISSION ANNUAL REPORT

## INTRODUCTION

The Michigan Planning Enabling Act (P.A. 33 of 2008, as amended) requires the Planning Commission to prepare, file and present an annual written report to the City Council. This document is intended to meet the state requirement as well as provide an overview of 2020 accomplishments.

The Planning Commission in Lathrup Village is comprised of seven members, many of whom have been on the Planning Commission for several years. These members come from a variety of professional backgrounds in architecture, business, finance, city planning, and education. The various perspectives and knowledge brought by these members creates a well-rounded Commission that maintains fair and thoughtful deliberations.

2020 was a challenging year for many communities. One of particular challenge was the health-related restriction on gatherings and meetings due to the Covid-19 pandemic. The State of Michigan amended the Open Meetings Act to allow for electronic meeting participation and the City of Lathrup utilized Zoom for its municipal meetings. The Planning Commission held one in-person meeting in January and held eight meetings electronically.

## 2020 PLANNING COMMISSION ROSTER

Name	Term Ending
Wilbert Fobbs III (Member)	3/1/23
Jason Hammond (Vice Chairperson)	5/21/21
Charo Hulleza (Member)	5/21/21
Bruce Kantor, City Council Liaison	
Mark Piotrowski, (Chairperson)	3/1/22
Les Stansbery (Member)	3/1/22
Anna Thompson (Secretary)	3/1/22

## COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT STAFF

Susan Stec, Community & Economic Development Manager.

Giffels Webster assists the city with planning and zoning services. Our team assists city staff with technical planning and zoning related calls, emails, and visits to the city. We also prepare reviews, memoranda, and reports for the Planning Commission, ZBA, and City Council, as needed. We attend all Planning Commission meetings as well as City Council meetings as requested. The GW team is directed by Jill Bahm, AICP, partner at GW, and supported by Matthew Wojciechowski, associate planner, Sri Ravali Komaragiri and Eric Pietsch, senior planners as well as our GIS team.

## 2020 Department activities

### Development Reviews

In 2020, the Planning Commission reviewed 5 development applications. The Zoning Board of Appeals considered one application.

**Site Plan Reviews.** Site plan review takes place when an application is submitted for new construction or additions to ensure that development plans meet the standards of the Zoning Ordinance. These standards are primarily non-discretionary standards – these are objective standards such as setback, landscaping, lighting, and parking requirements.

Five site plans were reviewed by the Planning Commission in 2020. These site plans represented applications for “by right” development (permitted uses). Site plan approvals are valid for twelve months, with a one-year extension permitted by the Planning Commission. These site plans included:

- 26710-26780 Southfield Road – Lathrup Plaza
- 27208-27260 Southfield - JMC
- 28600-28690 Southfield - JMC
- 28820-28880 Southfield – JMC
- 27215 Southfield Road – Southfield Life Center

**Special Land Uses.** Special land uses are uses that may be permitted in certain locations within the city, provided that certain standards are met. The Zoning Ordinance provides general standards for special land uses, and some uses have their own additional standards. Generally, most standards are non-discretionary, but there are some discretionary standards that the Planning Commission considers during the review process. There were no special land use requests submitted to the city in 2020.

**Public Input/Public Hearings.** The Planning Commission meetings are open to the public, and “public comment” is an agenda item at every meeting. Public hearings are required for PUD, special land use, and rezoning applications. Throughout 2020, there were no development review items that required public hearing. One public hearing was held for the zoning ordinance amendment discussed below.

### ZONING UPDATES

The Planning Commission worked on two amendments to the Zoning Ordinance this year:

- **R-1 Parking – Adjacent to MX District.** For many years, the Planning Commission has seen concepts for building expansion and reuse run into problems adequately addressing parking. Since 2015, the Planning Commission has discussed strategies to accommodate parking while also leaving some room for landscaping enhancements, outdoor dining or other amenities that may be desirable. The linear, narrow development pattern of the city’s commercial corridor is bounded by residential neighborhoods on one side and Southfield Road on the other. Any growth or revitalization has to occur within the 100 ft depth of these parcels. In addition to updating parking standards, providing for shared parking and allowing some parking to be provided in side-street rights-of-way, the Planning Commission prepared an amendment to allow parking as a special land use in the R-1 district when adjacent to the MX district and as part of a larger redevelopment project. A public hearing was held in December 2020.
- **Cannabis facilities.** Following a study group recommendation, City Council asked the Planning Commission to prepare zoning standards for cannabis facilities. These amendments were presented for a first draft in November and are being refined for a public hearing in early 2021.

## OTHER HIGHLIGHTS

- The Planning Commission, City Council and DDA had one joint meeting this year to improve communication between the boards and commissions as well as to develop a shared vision for the future. At this meeting, the group discussed the long-range improvements to Southfield Road with the Road Commission for Oakland County.
- The Community & Economic Development Department continues to work with the Michigan Economic Development Corporation (MEDC) to ensure that the city retains its Redevelopment Ready certification.
- The Community & Economic Development Department continues to work with Main Street Oakland County on redevelopment strategies and organizational support.

## MEETINGS

Body	Number of Meetings
Planning Commission	9
Zoning Board of Appeals	1
Joint City Council, Downtown Development Authority & Planning Commission	1

## THE YEAR AHEAD

**Comprehensive Plan.** In 2019, the city's Master Plan was ready for its five-year review, which is required by state law. This review was initiated by the Planning Commission in 2019 and the Planning Commission found that an update is needed. Since the Recreation Plan and Downtown Plan also need to be updated, the city launched a process to update all three plans as a Comprehensive Plan. This will allow the city to see how each of these plans relate to each other as well as encourage all boards and commissions responsible for implementation to see how their efforts are connected. The pandemic, development review and pressing zoning concerns has slowed the long-range planning process; however, it is anticipated that the plan will be completed in early 2021.

**Zoning Amendments.** The Comprehensive Plan will likely include zoning action strategies that recommend specific changes that may be needed to the Zoning Ordinance. Zoning-related work will likely occur after the planning process is complete.

# memorandum

**DATE:** January 12, 2021  
**TO:** Susie Stec, Community Development Manager  
**FROM:** Jill Bahm and Sri Komaragiri, Giffels Webster  
**SUBJECT:** Cannabis: Amendments to Regulations for Primary Caregivers

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## Introduction

As the City explores regulations for cannabis licensed by the state of Michigan, it has come to our attention that provisions for licensed caregivers should also be considered. Currently, the ordinance is silent on licensed caregivers, with the City intending, as many other municipalities in Michigan have, that licensed caregivers are considered home occupations while not effectively permitting activities that are illegal at the federal level.

## Current Language

The Zoning Ordinance currently does not regulate registered primary caregivers, but, consistent with the MMMA, effectively permits them as home occupations.

## Background on Issue

On April 27, 2020, in *DeRuiter v. Township of Byron*, the Michigan Supreme Court ruled that the MMMA did not nullify a municipality's inherent authority to regulate land use under the Michigan Zoning Enabling Act (MZEA) as long as: (1) the municipality does not prohibit or penalize the cultivation of medical marijuana; and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law.

This is an important law update for any community dealing with primary caregivers. As the MMMA is silent on zoning implications, most communities until now have understandably not pursued any significant land use restrictions on primary caregivers. This has left little in the way of these operations, which may have up to 12 customer patients, from locating in the middle of a residential subdivision with no local zoning consideration. This no longer has to be the case if desired.

## Potential impacts and considerations

Primary caregivers may serve up to six patients (five other registered patients and themselves), growing up to 12 plants per patient. Therefore, operations involve the cultivation of up to 72 plants. Indoor cultivation of cannabis plants requires large quantities of water and electricity. Growers frequently upgrade electrical service at the location of their operations, and demand on the grid can be significant, as grow lights run 24 hours a day. The City has the opportunity to consider the impacts of such uses on residential neighborhoods and individual residential properties.

## Draft Language

Please see the attached amending ordinance. In reviewing the draft language, please keep the following considerations in mind:

1. Primary caregivers are only licensed to provide cannabis to five individuals and is therefore a relatively low intensity in terms of traffic and parking. In this sense, it is similar to, and compatible with, office uses. The city's office district is primarily along 12 Mile Road, a major thoroughfare, with limited cut-through access into the city's residential neighborhoods. Given the limited geography of the office district and similarities between parcels in this district, we recommend these uses be permitted by right, rather than as special land uses.
2. There are sufficient parcels in this district to provide opportunities for primary caregiver uses, even with the city's proposed cannabis buffer distances to:
  - a. K through 12 public or private school building or licensed childcare center
  - b. A government or nonprofit facility that offers regular, on-site programs and services primarily to persons 18 years of age and under and is used for said programs and services for a minimum of three (3) days a week year-round. Programs and services may include, but are not limited to, social, training, cultural, artistic, athletic, recreational or advisory services and activities and includes private youth membership organizations or clubs and social service teenage club facilities.
  - c. A publicly owned park or playground
  - d. A facility is licensed by the State of Michigan as a Substance Use Disorder Program
  - e. A facility that serves as a temporary emergency shelter; however the distance is reduced to 500 feet.

Note that the separation distance requirement from other cannabis facilities has been removed from the above list. This would permit more than one licensed primary caregiver to use a site, if the space allows.

3. In the future, the City could explore whether other parcels would be well-suited to this use and create an overlay to the zoning map that would permit the use in targeted locations.
4. As part of the City's overall cannabis provisions, this amendment requires that a future caregiver operates locate outside of residential areas. This would make all legally established existing primary caregiver operations non-conforming.

**ORDINANCE NO. \_\_\_\_**  
**CITY OF LATHRUP VILLAGE**  
**OAKLAND COUNTY, MICHIGAN**

**AN ORDINANCE TO AMEND THE CITY OF LATHRUP VILLAGE ZONING ORDINANCE**

**ARTICLE 2, TO ADD DEFINITIONS FOR CANNABIS FACILITIES, ARTICLE 3, TO ADD LICENSED PRIMARY CAREGIVERS AS PERMITTED USES, AND TO ARTICLE 4, TO ADD SPECIFIC STANDARDS FOR LICENSED CAREGIVERS.**

**THE CITY COUNCIL OF THE CITY OF LATHRUP VILLAGE ORDAINS:**

**PART I. DEFINITIONS.**

**Amend Section 2.2 – Definitions, to add the following definitions:**

**Cannabis facilities.** Cannabis facilities mean “marihuana facilities” as defined by the State of Michigan. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Cannabis, also known as marihuana and marijuana.** The same definition of marihuana in this ordinance and in the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26421, et seq. (“MMMA”).

**Caregiver facility.** A facility where a "primary caregiver" who is legally registered by the Michigan Department of Community Health may lawfully assist up to five qualifying patients" who are also legally registered by the department with the acquisition of medical marijuana (cannabis) in accordance with the Michigan Medical Marijuana Act of 2008

**Medical use, Cannabis.** The acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of cannabis, cannabis-infused products, or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition.

**Primary caregiver.** A person who is at least 21 years old and who has agreed to assist with a qualifying patient’s medical use of cannabis and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

**Qualifying patient.** A person who has obtained a valid registration card from the Michigan Department of Community Health allowing them to possess and purchase medical marijuana.

**Separation Distance Measurements.** The distance computed by measuring a straight line from the nearest property line of the parcel used for the purposes stated in this ordinance to the nearest property line of the parcel used as a cannabis facility.

**PART 2. AMEND ARTICLE 3 TO ALLOW PRIMARY CAREGIVERS AS PERMITTED USES AS FOLLOWS BY ADDING ITEM 3.1.6.B.XI AND RENUMBERING AS NEEDED:**

**Section 3.1.6.B**

- i. Professional and administrative offices
- ii. Veterinary clinics
- iii. Personal services
- iv. Child care centers
- v. Instruction centers for academic and fine arts purposes
- vi. Publicly owned and operated parks and parkways
- vii. Business service uses
- viii. Civic uses, except those with outdoor storage of vehicles and materials
- ix. Mortuaries & funeral homes
- x. Banks and other financial institutions
- xi. Primary Caregiver facility**
- xii. Accessory buildings and uses customarily incidental to any of the above permitted uses
- xiii. Uses similar to any principal permitted use, as determined by the Planning Commission

**PART 3. AMEND ARTICLE 4 TO ADD A NEW SECTION 4.17 AS FOLLOWS:**

**Section 4.17 PRIMARY CAREGIVER FACILITIES**

**1. Findings, Purpose and Intent.**

The Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421 et. seq., as amended, does not nullify a municipality's inherent authority to regulate land use under the Michigan Zoning Enabling Act (MZEA), MCL 125.3101 et seq. as long as (1) the municipality does not prohibit or penalize the cultivation of medical cannabis (marihuana) and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law.

MCL 333.26424(b)(2) states that primary caregivers and qualifying patients must keep their plants in an enclosed, locked facility in order for those individuals to be entitled to the MMMA protections in MCL 333.26424(a) and (b). Because an enclosed, locked facility may be found in various locations on various types of property, this ordinance, limiting where a primary caregiver can cultivate medical marihuana within the City, does not conflict with the MMMA's requirement that cannabis plants be kept in an enclosed, locked facility.

The City finds that the average residence in the City is not aptly suited to the safe and favorable cultivation of 72 cannabis plants that a primary caregiver is permitted to grow under the MMMA. The City further finds that the cultivation of 72 cannabis plants by primary caregivers in residential districts creates potential hazards and potential adverse and detrimental effects on the neighboring properties that endanger the public health, safety and welfare. The purpose and intent of this ordinance is to identify suitable locations for primary caregivers to cultivate medical cannabis, in compliance with the MMMA and this Article and to protect the public health, safety and welfare by mitigating the potential adverse and detrimental effects of such cultivation on neighboring properties.

**2. Ordinance has no effect on patient use.**

This ordinance does not apply to or regulate any qualifying MMMA patient activities or conduct that is in compliance with the MMMA. A qualifying patient, operating in compliance with the MMMA, shall be permitted to cultivate, at the primary residence of the patient, who shall also be a fulltime resident of the

dwelling, no more than the 12 allowed cannabis plants as permitted by the MMMA for the patient's personal use to treat their debilitating medical condition. The possession, smoking or ingestion of medical cannabis by a qualifying patient who has been issued and possesses a valid registry identification card under the Michigan Medical Marihuana Act (being PA 2008, Initiated Law, at MCL 333.26421, et seq.) in any zoning district shall not be considered a use of land regulated under this Chapter.

### 3. No defenses against criminal prosecution.

Nothing in this ordinance is intended to grant, nor shall anything in this Ordinance be construed as granting, immunity from or affirmative defenses against criminal or other prosecution under state laws or local ordinances, including without limitation this Ordinance, for growing, sale, consumption, use, distribution, or possession of cannabis not in strict compliance with the MMMA and the General Rules of the Michigan Department of Community Health (MDCH). Also, since federal law is not affected by the MMMA or the MDCH's General Rules, nothing in this Ordinance is intended to grant, nor shall anything in this Ordinance be construed as granting, immunity from or an affirmative defense against criminal prosecution under federal law. Moreover, nothing in this Ordinance shall be construed or interpreted as endorsing, aiding, or abetting violations of federal or state laws.

The MMMA and this zoning ordinance do not protect users, caregivers or the owners of properties on which the medical use, growing, possession or handling of cannabis occurs from federal prosecution, or from having property seized by federal or state authorities under the federal Controlled Substances Act or other federal laws. The use, possession and growing of cannabis remains illegal; however, consistent with the MMMA and rulings of the Michigan Supreme Court, this Section of the Ordinance designates the specific districts of the City in which medical cannabis Primary Caregivers may assist one or more medical cannabis patients in the specific and limited circumstances and under the conditions set forth in this Section.

### 4. **Standards.** The following regulations shall apply to all Primary Caregivers:

- A. **Applicability.** Where permitted, no building or land shall be used and no buildings shall be erected except for Primary Caregivers or one or more of the principal permitted uses, special approval uses, or accessory structures and uses permitted in the underlying zoning district, in accordance with the height, area, and bulk regulations provided therein, except as otherwise provided in this Section. Primary Caregivers shall only operate on a zoning lot located within the Office District and, if so located, shall be a permitted use. Site plan approval by the Planning Commission is required prior to commencing any new primary caregiver use, per Section 6.1.
- B. **Compliance with state laws and rules.** The medical use of cannabis and the amount of cannabis and cannabis plants in the possession of the primary caregiver on the premises shall comply at all times and in all circumstances with the MMMA and the General Rules of the MDCH, as they may be amended from time to time.
- C. **Separation from uses.** A licensed primary caregiver shall be located outside of a one thousand (1,000)-foot radius from the following:
  - i. K through 12 public or private school building or licensed childcare center
  - ii. A government or nonprofit facility that offers regular, on-site programs and services primarily to persons 18 years of age and under and is used for said programs and services for a minimum of three (3) days a week year-round. Programs and services may include, but are not limited to, social, training, cultural, artistic, athletic, recreational or advisory services and activities and includes private youth membership organizations or clubs and social service teenage club facilities.



- iii. A publicly owned park or playground
  - iv. A facility is licensed by the State of Michigan as a Substance Use Disorder Program
  - v. A facility that serves as a temporary emergency shelter; however, the buffer distance from this use is a minimum of 500 feet.
- D. **Minimum floor area.** There shall be a minimum of 750 sf of floor area per primary caregiver and a maximum of three primary caregivers per building, provided that each individual operation is conducted wholly on the same floor. If more than one primary caregiver is located within a single building, each enclosed locked facility for cannabis must be identified on a floor plan that is approved by the City as part of a site plan. Each individual enclosed locked facility shall receive a certificate of zoning compliance before the presence of cannabis is allowed.
- E. **Secure facilities.** All medical cannabis shall be contained within the main building in an enclosed, locked facility inaccessible on all sides, including top and bottom, and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:
- i. The vehicle is actively being used temporarily to transport cannabis from one location to another with the intent to permanently retain cannabis at the second location in compliance with the MMMA and this ordinance.
  - ii. An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the cannabis belongs, or is the individual designated as the primary caregiver for the registered qualifying patient;
- F. **Appearance.**
- i. The structure shall be designed and maintained in a manner consistent with other permitted uses in the zoning district within which it is located.
  - ii. Grow lights, plants, growing and processing areas and related products and operational areas shall not be visible from any property line. If exterior windows are located in these areas, they shall be frosted, screened or otherwise modified to the satisfaction of the Planning Commission so that the use, as described above, is not visible from any property line.
  - iii. Bars or similar security features are prohibited, unless the Planning Commission finds that the design of the security feature(s) is in keeping with the spirit and intent of the ordinance.
  - iv. Outdoor storage is prohibited.
- G. **Odor.** All primary caregivers shall include odor control methods that follow industry best practices for removal of odor so that odor from the operation is not discernable beyond the property line of the zoning lot. Such methods shall be subject to approval of the Planning Commission, including but not limited to activated carbon filters/scrubbers, internal exhaust fans, odor neutralizers, and air purifiers, to be included as part the approval process. Ozone generators shall not be permitted as an odor neutralization method.
- H. **Distribution on site prohibited.** Distribution of cannabis or use of items in the administration of cannabis shall not occur at or on the parcel where medical cannabis is cultivated. A qualifying patient shall not visit, come to, or be present at the parcel where medical cannabis is cultivated to purchase, smoke, consume, obtain or receive possession of any cannabis.

- I. **Use or consumption on site prohibited.** Use or consumption in any manner of cannabis or any illegal controlled substance is not permitted by a qualified patient on the premises of any primary caregiver.
- J. **Alcohol prohibited on site.** No alcoholic beverage shall be sold, conveyed or consumed on the premises of any primary caregiver, nor shall any person be present on the premises of a primary caregiver while intoxicated and/or under the influence of alcohol or any controlled substance.
- K. **Signage.** No sign identifying the location by word, image or otherwise, or indicating that the cultivation of medical cannabis is taking place on the premises, shall be permitted. No vehicle having such a sign shall be parked anywhere on the premises.
- L. **Permits required.** All required building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of cannabis are located, and for any improvements to the structure relating to the use. Discharge of toxic, flammable or hazardous materials into city sewer or storm drains is prohibited.
- M. **Inspection.** 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.
- N. **Zoning review application requirements.** Zoning applications for primary caregiver facilities shall be submitted as required in Section 6.1. In addition, the following information is also required:
  - A. As provided in Section 6.1, a site plan shall be required, showing the proposed building(s) to be used, remodeled or reconstructed, along with the parking, landscaping and lighting plans. Existing and proposed building elevations shall be provided, including building materials, window glazing calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.
  - B. A plan for general waste disposal, chemical disposal and plant waste disposal.
  - C. A notarized statement by the property owner that acknowledges use of the property for a cannabis facility and agreement to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a cannabis facility. Written consent shall also include approval of the owner and operator for the City to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations.
  - D. A copy of the current primary caregiver license as issued by the state of Michigan.
  - E. A map, drawn to scale, containing all schools, publicly owned parks or playgrounds, temporary emergency shelters, Substance Use Disorder Programs, and any cannabis facilities within one-thousand (1,000) feet of the proposed location. Distances shall be measured in accordance with the Separation Distance Measurements, as defined in Section 2.2.
  - F. Operations and Management Plan. An operations and management plan shall be submitted. The plan should describe security measures in the facility; this may include the movement of the product, methods of storage, cash handling, etc.
  - G. All permitted facilities shall be bonded to guarantee that all accounting and taxes are paid in full according to the law and that the operation or facility performs in accordance with all government standards

**PART 4. AMEND SECTION 5.13 AS FOLLOWS TO PROVIDE PARKING STANDARDS FOR CANNABIS FACILITIES:**

**Section 5.13.13. Minimum numbers of parking spaces required.**

**C. Business & Commercial**

- i. Professional and administrative offices, **including primary caregiver facilities:** One (1) per 275 sq ft of gross leasable area

**PART 5. SAVINGS CLAUSE.**

The amendments referenced herein do not affect or impair any act done, offense committed, or right accruing or acquired, or liability, penalty or forfeiture or punishment pending or incurred prior to the effective date of this amendment.

**PART 6. SEVERABILITY.**

This Ordinance and its various parts, sentences, paragraph, sections, clauses and rules promulgated hereunder are hereby declared to be severable. If any part, sentence, paragraph, section, clause, or rule promulgated hereunder is adjudged to be unconstitutional or invalid for any reason, such holdings shall not affect the remaining portions of this Ordinance.

**PART 7. REPEALER.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**PART 8. EFFECTIVE DATE; PUBLICATION.**

This Ordinance shall become effective after publication of a brief notice in the newspaper circulated in the City, stating the date of the enactment and the effective date of the Ordinance, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk, and such other facts as the City Clerk shall deem pertinent.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL, CITY OF LATHRUP VILLAGE, OAKLAND COUNTY, MICHIGAN THIS \_\_\_ day of \_\_\_\_, 2021

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Yvette Talley, City Clerk

Date of Introduction:

Date of Adoption:

Date of Publication of Notice of Adoption:

**CERTIFICATE OF ADOPTION**

I hereby certify that the foregoing is a true and complete copy of the ordinance passed at a meeting of the City of Lathrup Village held on the \_\_\_\_ day of \_\_\_\_, 2021

\_\_\_\_\_

Yvette Talley, City Clerk

