

ORDINANCE NO. 1637

AN ORDINANCE TO AMEND TITLE V, ZONING AND PLANNING, OF CHAPTER 45, ZONING ARTICLE 2, OF THE CODE OF THE CITY OF SOUTHFIELD, BY ADDING NEW SECTIONS 5.3 DEFINITIONS (A-B); SECTIONS 5.4 DEFINITIONS (C-D); 5.5 DEFINITIONS (E-F); 5.7 DEFINITIONS (L-M); 5.8 DEFINITIONS (N-S); 5.9 DEFINITIONS (T-Z) AND ARTICLE 19, BY ADDING NEW SECTION 5.179 USES PERMITTED SUBJECT TO SPECIAL APPROVAL AND LICENSING

THE CITY OF SOUTHFIELD ORDAINS:

ARTICLE 2 DEFINITIONS

THE CODE OF THE CITY OF SOUTHFIELD IS HEREBY AMENDED BY ADDING NEW SECTIONS 5.3 DEFINITIONS (A-B); SECTIONS 5.4 DEFINITIONS (C-D); 5.5 DEFINITIONS (E-F); 5.7 DEFINITIONS (L-M); 5.8 DEFINITIONS (N-S); 5.9 DEFINITIONS (T-Z), TO TITLE V, ZONING AND PLANNING, OF CHAPTER 45, ZONING ARTICLE 2, WHICH SHALL READ AS FOLLOWS:

SECTION 1.

5.3 Definitions (A-B)

For the purpose of this Chapter, certain terms are herewith defined:

- (1) **ADULT BOOKSTORE:** an establishment wherein more than twenty (20%) percent of its stock in trade is comprised of books, magazines, and other periodicals having as dominant theme matter, depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" as defined in this Chapter, or an establishment with a segment or section devoted to the sale or display of such material.
- (2) **ADULT MOTION PICTURE THEATER:** an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" as defined in this Chapter for observation by patrons therein.
- (3) **ALTERNATIVE FINANCIAL SERVICES:** Any non-chartered financial institution offering check cashing services, currency exchange, pay-day loans and/or similar services as its primary function. (Amended – Ordinance 1597 – 11/11/12)
- (4) **AN ALLEY:** is a dedicated public way of less than thirty (30') feet (9.15 meters) in width affording a secondary means of access to abutting property and not intended for general traffic circulation.
- (5) **ARCADES:** any place of business or amusement, or any place of business or amusement located within a building or any portion thereof in which more than three (3) tokens, coins or otherwise operated mechanical and/or electrical amusement devices are installed, whether or not intended as a principal use or accessory use of that building or structure, in accordance with the provisions of Chapter 81, Recreation, Amusement and Games, Section 7.286 and Section 7.287 of the Southfield City Code. (Amended - Ordinance 1102 - 9/27/82)

- (6) ATTIC: the space between the ceiling beams of the top habitable floor and the roof.
- (7) A BASEMENT: a portion of a building partially underground, but having less than half its clear height below the grade plane (see cellar).
- (8) BOARD OF APPEALS: shall mean the Zoning Board of Appeals of the City of Southfield.
- (9) BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP: A treatment or counseling relationship between a physician and patient in which all of the following are present:
 - (a) The physician has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.
 - (b) The physician has created and maintained records of the patient's condition in accord with medically accepted standards.
 - (c) The physician has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marihuana as a treatment of the patient's debilitating medical condition.
 - (d) If the patient has given permission, the physician has notified the patient's primary care physician of the patient's debilitating medical condition and certification for the use of medical marihuana to treat that condition.
- (10) BUFFER: A strip of land of definitive width and location reserved to separate existing uses or districts from proposed uses located within an ODD. The buffer may include existing topography, vegetation, and waterways; Right(s)-Of-Way; and landscaped site features (including walls and decorative fencing). (Amended – Ordinance 1603 – 4/7/13)
- (11) BUFFER STRIP: a strip of land of definite width and location reserved for planting of shrubs and trees to serve as an obscuring screen.
- (12) BUILDING: any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind.
- (13) BUILDING, ACCESSORY: is a building subordinate to the main or principal building on the lot and used for the purposes customarily incidental to those of the main building.
- (14) BUILDING, HEIGHT OF: the height of a building is the vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface, if a flat roof; to the deck line for mansard roofs; and to the mean height level between eaves and the ridge for gable, hip and gambrel roofs.
- (15) BUILDING LINE: a line parallel to the front lot line at the minimum required front setback line.
- (16) BUILDING, PRINCIPAL: a building in which is conducted the primary use of the lot on which it is situated.

5.4 DEFINITIONS (C-D)

- (1) CABARET: any place wherein food and any type of alcoholic beverage is sold or given away on the premises and the operator thereof holds a yearly license to sell such beverages by the glass and which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.
- (2) CARPORT, PRIVATE: a permanent roofed structure, not exceeding one story in height, permanently open on at least two sides, designed for or occupied by private passenger motor vehicles. (Amended – Ordinance 1606 – 4/8/13)
- (3) CELLAR: that portion of a building partially or wholly, underground, having half or more than half of its clear height below the grade plane. A cellar shall be uninhabitable and shall not be counted as a story.
- (4) CHECK CASHING FACILITY: (See also Alternative Financial Services) A person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. “Check Cashing Facility” does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. “Check Cashing Facility” also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or issue money orders for a minimum flat fee as a service that is incidental to its main purpose or business. (Amended – Ordinance 1597 – 11/11/12)
- (5) CHILD CARE CENTER (OR DAY CARE CENTER): a facility, other than a private residence, receiving one or more preschool-age children for care for periods of less than 24 hours a day, where parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before-or after-school program, or drop-in center.

A Child Care Center or Day Care Center does not include the following:

- (I) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three hours per day for an indefinite period or for not more than eight hours per day for a period not to exceed four weeks during a 12-month period.
- (II) A facility operated by a religious organization where children are in the religious organization’s care for not more than three hours while persons responsible for the children are attending religious services.

- (III) A program that is primarily supervised school-age child-focused training in a specific subject, including, but not limited to: dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training
 - (IV) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to: youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will. (Amended – Ordinance 1588 – 12/25/2011)
- (6) CHILD CARE HOME, FAMILY: a private home in which a permanent occupant of the dwelling provides for the care of fewer than seven minor children unrelated to the care provider for periods of less than 24 hours a day for more than four weeks in a calendar year unattended by the children's parents or legal guardians, and must be licensed and/or registered by the State. (Amended – Ordinance 1588 – 12/25/2011)
 - (7) CHILD CARE HOME, GROUP: a private home in which a permanent occupant of the dwelling provides for the care of more than six but not more than 12 minor children unrelated to the care provider of periods of less than 24 hours a day, for more than four weeks in a calendar year unattended by the children's parents or legal guardians, and must be licensed and/or registered by the State. (Amended – Ordinance 1588 – 12/25/2011)
 - (8) CHILD CARE, PRIVATE HOME: a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. (Amended – Ordinance 1588 – 12/25/2011)
 - (9) CIGAR BAR: an establishment or area within an establishment that is open to the public and is designated for the smoking of cigars, purchased on the premises or elsewhere. (Amended – Ordinance 1619 – 3/9/14)
 - (10) COMMISSION: shall mean the Planning Commission of the City of Southfield.
 - (11) COMMUNITY IMPACT STATEMENT: an informational document, the purpose of which is to provide the City of Southfield with detailed information about the effect which a proposed rezoning or a proposed project is likely to have on the environment and the community; to list ways in which any adverse effects of such a rezoning or proposed project might be minimized.
 - (12) COUNCIL: shall mean the City Council of the City of Southfield.

- (13) A COURT: is an open, unoccupied space other than a yard and bounded on at least two (2) sides by a building. A court extending to the front lot line or front yard, or the rear lot line or rear yard, is an outer court. Any other court is an inner court.
- (14) CURRENCY EXCHANGE: (See also Alternative Financial Services) A commercial use that exchanges common currencies, sells money orders or cashier's checks, and cashes checks as its principal business activity. This shall not include a properly chartered financial institution. (Amended – Ordinance 1597 – 11/11/12)
- (15) DEBILITATING MEDICAL CONDITION: Means 1 or more of the following:
 - (a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions.
 - (b) A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of Multiple sclerosis.
 - (c) Any other medical condition or its treatment approved by the department, as provided for in Michigan Medical Marihuana Act, P.A. 2008, Initiated Law 1 (MMMA), as amended.
- (16) DEPARTMENT: The Michigan department of licensing and regulatory affairs.
- (17) DEPARTMENT STORE: a department store is defined as one (1) retail store providing shopping goods, general merchandise, apparel and home furnishings in full depth and variety or one (1) retail store containing a minimum floor area of forty-five thousand (45,000) usable square feet (4,185 square meters). (Amended - Ordinance 1331 - 2/10/92)
- (18) DEVELOPMENT AREA: a tract of land of five (5) acres (2.025 hectares) or more which may be subsequently subdivided into parcels of less than five (5) acres (2.025 hectares). The development area may be owned by or controlled by one (1) or more parties who are acting with the single purpose of developing the contiguous parcels in accordance with the provisions of a single zoning district.
- (19) DISPLAY, OUTSIDE: the outdoor standing or placement of immediately usable goods which are available for sale, lease, or rental and which are displayed in such manner as to be readily accessible for inspection and removal by the potential customer.
- (20) DISTRICT: a portion of the incorporated area of the City within which certain regulations and requirements or various combinations thereof apply under the provisions of this Chapter.

- (21) DWELLING, MULTIPLE FAMILY: is a building or portion thereof designed exclusively for occupancy by three (3) or more families living independently of each other.
- (22) DWELLING, MULTIPLE FAMILY HIGH RISE: a multiple family dwelling of three (3) or more stories in height.
- (23) DWELLING, MULTIPLE FAMILY LOW RISE: a multiple family dwelling not more than two (2) stories in height.
- (24) DWELLING, ONE FAMILY: is a building designed exclusively for, and occupied exclusively by, one (1) family.
- (25) DWELLING, TWO FAMILY: is a building designed exclusively for occupancy by two (2) families living independently of each other.
- (26) DWELLING UNIT: is a building or portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.
- (27) DWELLING UNIT, EFFICIENCY TYPE: a dwelling unit consisting of not more than one (1) room in addition to kitchen and sanitary facilities and containing not less than four hundred and twenty-five (425) square feet (39.525 square meters) of usable floor area.

5.5 Definitions (E-F) (Amended - Ordinance 1347 - 6/8/92)

- (1) ENCLOSED LOCKED FACILITY: An indoor closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient. (Amended – Ordinance 1637 – 4/5/15)
- (2) A FAMILY: is any number of persons living together in a room or rooms comprising a single housekeeping unit, doing their cooking on the premises and related by blood or marriage and including the domestic employees thereof. Any group of persons not so related, but inhabiting a single house, shall, for the purpose of this Chapter, be considered to constitute one (1) family for each five (5) persons, exclusive of domestic employees, contained in such group.

- (3) A FARM: is a parcel or parcels of contiguous unplatted land of not less than ten (10) acres (4.05 hectares) which is directly farmed or used in the normal pursuits of agriculture by one (1) farmer, and which may include establishments operating as greenhouses, nurseries, orchards, chicken hatcheries, or apiaries. But establishments operating as fish hatcheries, stockyards, recreational parks, stone quarries, gravel pits, breeding or raising furbearing animals or game, or keeping more than the normal number of dogs or livestock usually kept on a farm shall not be considered farms hereunder as to the particular part or portion of the premises used or engaged in the operation of said enterprises; and provided, any other matter which emits an offensive odor and/or is obnoxious, detrimental, or dangerous to the public health or safety, or interferes with the peaceful enjoyment of property, shall be and is hereby declared to be a nuisance per se, on a parcel of land of less than ten (10) acres (4.05 hectares); the growing and selling of produce, animals, and fowl, and the keeping of bees shall be permitted under this Chapter, provided same is produced on said parcel of land and does not become a nuisance or obnoxious to the public health, morals, general welfare, or safety of the community.
- (4) FLOODPLAIN: the land adjacent to a body of water which has been or may be hereafter covered by floodwaters which has the same boundaries as the one hundred (100) year base flood level as delineated on the flood insurance rate map of the City of Southfield, Community Panel No. 260179-0010 B, prepared by the United States Department of Housing and Urban Development and the profiles prepared by the Federal Insurance Administration in conjunction with said map. Specifically, the floodplain controls apply to the main River Rouge, Pebble Creek, Franklin Branch, Evans Ditch, Farmington Branch, and Carpenter Branch.
 - (a) REGULATORY FLOODPLAIN: the channel of a river or other watercourse and the adjacent land areas designated by the profiles in the flood insurance study, for the City of Southfield, Michigan 1978, and prepared by the Federal Insurance Administration which must be reserved in order to discharge the base flood, or that flood which has a one (1%) percent chance of being equaled or exceeded in any given year.
 - (b) FLOODPLAIN FRINGE: that portion of the floodplain outside of the regulatory floodplain (100 year flood) and designated as Zone "B" (100-500 year flood) on the flood insurance rate maps and the flood insurance study.
- (5) FINANCIAL INSTITUTION: A bank, savings and loan, credit union, mortgage office, or automated teller machine, which is chartered under federal or state law. Financial institutions shall not include a currency exchange. (Amended – Ordinance 1597 – 11/11/12)

- (6) FLOODPLAIN: the land adjacent to a body of water which has been or may be hereafter covered by floodwaters which has the same boundaries as the one hundred (100) year base flood level as delineated on the flood insurance rate map of the City of Southfield, Community Panel No. 260179-0010 B, prepared by the United States Department of Housing and Urban Development and the profiles prepared by the Federal Insurance Administration in conjunction with said map. Specifically, the floodplain controls apply to the main River Rouge, Pebble Creek, Franklin Branch, Evans Ditch, Farmington Branch, and Carpenter Branch.
 - (a) REGULATORY FLOODPLAIN: the channel of a river or other watercourse and the adjacent land areas designated by the profiles in the flood insurance study, for the City of Southfield, Michigan 1978, and prepared by the Federal Insurance Administration which must be reserved in order to discharge the base flood, or that flood which has a one (1%) percent chance of being equaled or exceeded in any given year.
 - (b) FLOODPLAIN FRINGE: that portion of the floodplain outside of the regulatory floodplain (100 year flood) and designated as Zone "B" (100-500 year flood) on the flood insurance rate maps and the flood insurance study.
- (7) FLOOR AREA: is the sum of the horizontal areas of each story of the dwelling unit and shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, common halls, and stairways in two family or multiple family structures, and enclosed and unenclosed porches.
- (8) FRONTAGE: that portion of any property abutting a street; a corner lot and a thru lot have frontage on both abutting streets.
- (9) FRONTAGE BLOCK: for the purposes of this Chapter, a frontage block shall mean all land fronting on both sides of a street between the nearest streets intersecting said streets.

5.7 Definitions (L-M)

- (1) LANDSCAPING: the treatment of the ground surface with live materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other growing horticultural material. In addition, the combination or design may include other decorative surfacing such as wood chips, crushed stone, or mulch materials not to exceed twenty (20%) percent of the total for any landscape area. Structural features such as fountains, pools, statues, garden walls less than three (3') feet (0.915 meters) in height, and benches shall also be considered a part of landscaping but such objects alone shall not meet the requirements of landscaping. In addition, artificial plant materials shall not be permitted in required landscape areas.

- (2) **LOADING SPACE:** an off-street space on the same lot with a building or group of buildings for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.
- (3) **A LOT:** is a parcel of land on which a principal building and its accessories may be placed, together with the required open spaces.
- (4) **LOT, CORNER:** a corner lot is a lot of which at least two (2) adjacent sides abut a street, provided that such two (2) sides intersect at an angle of not more than one hundred and thirty-five (135E) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at its points of beginning within the lot or at the points of intersection are not more than one hundred and thirty-five (135E) degrees. In the case of a corner lot with a curved street line, the corner shall be considered to be that point of the street and lot line nearest to the point of intersection of the tangents herein described.
- (3) **LOT, INTERIOR:** an interior lot is a lot other than a corner lot.
- (4) **LOT, THRU:** a lot having front and rear lot lines abutting a street.
- (5) **LOT OF RECORD:** a parcel of land delineated on a plat recorded with the Oakland County Register of Deeds.
- (6) **LOT LINE, FRONT:** in the case of a lot abutting upon one (1) street, the front lot line is the line separating such lot from such street. In the case of any other lot, one (1) such line shall be elected to be the front lot line for the purpose of this Chapter, provided it is so designated by the building plans filed for approval with the Director of the Department of Building and Safety Engineering.
- (7) **LOT LINE, REAR:** the rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line, not less than ten (10') feet (3.05 meters) long, lying farthest from the front lot line and wholly within the lot.
- (8) **LOT LINE, SIDE:** a side lot line is any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior lot line.
- (9) **A MAJOR THOROUGHFARE:** is any street with an existing or proposed right-of-way of one hundred and twenty (120') feet (36.6 meters) or more.
- (10) **MARIHUANA:** That term as defined in Section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

- (11) **MECHANICAL AND ELECTRICAL AMUSEMENT DEVICE:** any machine which, upon the insertion of a coin, slug, token, plate, or disc or any charge thereof, may be operated by the public generally for use as a game, entertainment, or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical or electrical machines, and all games, operations, or transactions similar thereto under whatever name they may be indicated and in accordance with the provisions of Chapter 81, Recreation, Amusements and Games, Section 7.286 and Section 7.287 of the Southfield City Code. (Amended - Ordinance 1062 - 7/6/81)
- (12) **MEDICAL MARIHUANA FACILITY:** A licensed facility, building or structure used, maintained or occupied to provide the medical use of marihuana for use by qualifying patient(s) and a primary caregiver as provided and authorized by the Michigan Medical Marihuana Act and in exchange for compensation for reimbursement of costs associated with assisting a registered qualifying patient in the medical use of marihuana. A Medical Marihuana Facility is located on land that is owned, leased, or rented by either the registered qualifying patient or a person designated through the departmental registration process as the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located. A Medical Marihuana Facility shall meet all the requirements of a special land use in designated zoning district(s).
- (13) **MEDICAL USE:** The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
- (14) **MOBILE HOME:** a structure designed or used for residential occupancy built upon, or having, a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached or is supported by blocks or skirting.
- (15) **MOTEL:** a building or buildings of attached, semidetached or detached rental units, containing a bedroom and a bathroom, designed for overnight lodging and which may not be used as a domicile. The term motel may include rooms with cooking facilities, suites, motor courts, tourist courts, motor lodges, residence inns, or residence hotels which lack the full service requirements of a hotel in Section 5.6 (5) (Amended - Ordinance 1220 - 2/26/87; Amended - Ordinance 1434 - 9/24/98).

5.8 Definitions (N-S) (Amended - Ordinance 1336 - 6/8/92)

- (1) **NONCONFORMING BUILDING:** a building or portion thereof lawfully existing at the effective date of this Chapter, or amendments thereto, that does not conform to the provisions of this Chapter and/or the use regulations of the district in which it is located.

- (2) **NONCONFORMING USE:** a use which lawfully occupied a building or land at the time this Chapter, or amendment thereto, became effective, that does not conform to the provisions of this Chapter nor to the use regulations of the district in which it is located.
- (3) **NURSING HOME:** an installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or infirmity.
- (4) **ONE FAMILY ATTACHED:** a building or structure for more than one (1) dwelling unit, where each dwelling unit is separated from the abutting dwelling unit by a party wall extending up from the ground the full height of the building. Each dwelling unit shall have direct access from outdoors from at least the front and rear or side of the unit.
- (5) **OVERLAY DEVELOPMENT DISTRICT (ODD):** The Overlay Development District (ODD) means a unified site design for one or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose density or intensity transfers, density or intensity increases, mixing of land uses, or any combination thereof, and that provides flexibility to lot size, bulk, or type of dwelling or building use, density, intensity, lot coverage, parking, required common open space, public art or other standards to zoning use district requirements that are otherwise applicable to the area in which it is located. (Amended – Ordinance 1603 – 4/7/13)
- (6) **PARKING:** the standing or placement of motor vehicles currently used to transport people, goods, or materials in the conduct of normal daily activities provided that such standing or placement is limited to periods of less than forty-eight (48) hours.
- (7) **PARKING SPACE:** the area required for parking an automobile which shall be a minimum of nine (9') feet (2.745 meters) wide and twenty (20') feet (6.1 meters) long, but not including drives and aisles.
- (8) **PAWN SHOP:** A business or establishment which loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price. (Amended – Ordinance 1597 – 11/11/12)
- (10) **PAY DAY LOANS:** (See also Alternative Financial Services) An establishment providing loans to individuals in exchange for personal checks as collateral. (Amended – Ordinance 1597 – 11/11/12)
- (11) **PHYSICIAN:** An individual licensed as a physician under Part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under Part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

- (12) **PRIMARY CAREGIVER OR CAREGIVER:** A person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana 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.
- (13) **PUBLIC UTILITY:** any person, firm, corporation, municipal department, or board or commission duly authorized to furnish and furnishing to the public, under governmental regulations: electricity, gas, steam, telephone, telegraph, trans- portation, water, communication, or sewage disposal.
- (14) **QUALIFYING PATIENT:** A person who has been diagnosed by a physician as having a debilitating medical condition.
- (15) **REGIONAL SHOPPING CENTER:** the regional shopping center is designed to provide a large concentration of comparison shopping needs for persons residing in a densely settled urban area. The regional shopping center shall provide shopping goods, general merchandise, apparel, furniture and home furnishings in full depth and variety. The regional shopping center will contain a minimum of three hundred thousand (300,000) gross square feet (27,900 square meters) of commercial building area and will include at least one (1) department store. (Amended - Ordinance 1331 - 2/10/92)
- (16) **REGISTRY IDENTIFICATION CARD:** A document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.
- (17) **RESTAURANTS:**
 - (a) **DINING ROOM;** a structure which is maintained, operated, and advertised or held out to the public as a place where food and beverage are served, and consumed, primarily within the structure. Such food and beverage are served primarily in non-disposable (reusable by the restaurant) containers.
 - (b) **DRIVE-IN RESTAURANT:** a drive-in restaurant is any establishment where food, frozen dessert, and/or beverages are served to customers while seated in their motor vehicles upon the premises. It shall also include any establishment where the customers may serve themselves and are permitted to consume food and beverages in a motor vehicle parked on the premises or at other facilities which are provided for the use of the patron for the purpose of consumption and which are located outside of the building or structures.
 - (c) **FAST FOOD RESTAURANT:** a structure which is maintained, operated, and advertised or held out to the public as a place where food, beverage, and/or desserts are served to customers from a serving counter in disposable (not reusable by restaurant) containers or wrappers. Such food, beverage, and/or desserts may be consumed: inside the building; outside, at facilities provided; or "carried out" for consumption off the premises.

- (d) CARRYOUT RESTAURANT: a structure which is maintained, operated, and/or advertised or held out to the public as a place where food, beverage, and/or desserts are served in disposable containers or wrappers from a serving counter for consumption exclusively off the premises.
- (e) BAR/LOUNGE: a structure or part of a structure designed, maintained, and operated primarily for the dispensing of alcoholic beverages. The selling of food and/or snacks may also be permitted. If the bar/lounge area is part of a larger dining facility, it shall be defined as that part of the structure so designated and/or operated.
- (f) Outside Dining: Seasonal outside dining is permitted in conjunction with the above uses when the use complies with the following conditions. (Amended - Ordinance 1430 - 9/24/98)
 - 1. Seasonal outside dining, for the purposes of this chapter, will be defined as beginning on the first day of may through the last day of October.

The hours of operation for outside dining will be consistent with the hours of operation of the inside restaurant, with the exception of establishments which hold a liquor license in which case the designated outside dining area shall close at midnight.
 - 3. That there is adequate parking for the outside dining area in accordance with the parking provisions of Article 4, Section 5.30 of this Ordinance.
 - 4. That the outside dining area is separated from sidewalks and driveways by means of landscaping, planter boxes, and/or fences and railings.
 - 5. That all tables, chairs and trash receptacles will be removed at the end of the summer season.
 - 6. Appropriate trash receptacles shall be provided within the designated outside dining area.
 - 7. Outside entertainment, whether live or recorded, is expressly prohibited unless approval is granted by the Southfield city council.
- (18) SATELLITE DISH ANTENNA: is any earth station antenna of parabolic or spherical design for the reception or transmission of earth radio and/or television signals to/or from satellites or other orbiting facilities. (Amended - Ordinance 1191 - 3/17/86)

- (19) **SCHOOL:** A building or part of a building, which is owned or leased by, or under the control of, a public or private school or school system for the purpose of instruction as required by section 1561 of Act No. 451 of the Public Acts of 1976, as amended of the Michigan Compiled Laws, which is occupied by 6 or more students, and which is used 4 or more hours per day or more than 12 hours per week.
- (a) **Drug-free school zone:** An area inclusive of any property used for school purposes by any publicly funded primary school, whether or not owned by such school, within 1,000 feet of any such property, and within or immediately adjacent to school buses.
- (20) **SETBACK:** the distance required to obtain the minimum front, side, and rear open space provisions of this Chapter.
- (21) **SMOKE OR SMOKING:** the lighting, inhaling, exhaling, burning, or carrying of any lighted cigar, cigarette, tobacco, plant, or other similar article or combustible substance in any form. (Amended – Ordinance 1619 – 3/9/14)
- (22) **SMOKING LOUNGE:** an establishment which, in whole or in part, includes as part of the business, or otherwise, permits the smoking of tobacco or other substances including, but not limited to, establishments commonly known as or referred to Cigar Bars/Lounges, Hookah Bars/Cafes, Tobacco Bars/Cafes, or Smoking Parlors. (Amended – Ordinance 1619 – 3/9/14)
- (23) **SPECIAL EXCEPTION:** a use permitted when the facts and conditions specified in this Chapter, as those upon which the exception is permitted, are found to exist by the appropriate administrative officer or body.
- (24) **SPECIFIED ANATOMICAL AREAS:** for the purposes of this Chapter shall be defined as follows:
- (a) **Less than completely and opaquely covered:** (1) human genitals, pubic region, (2) buttock, and (3) female breast below a point immediately above the top of the areola.
- (b) **Human male genitals in a discernibly turgid state,** even if completely and opaquely covered.
- (21) **SPECIFIED SEXUAL ACTIVITIES:** for the purposes of this Chapter shall be defined as follows:
- (a) **Human genitals in a state of sexual stimulation or arousal.**
- (b) **Acts of human masturbation, sexual intercourse, or sodomy.**
- (c) **Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.**

- (22) STORAGE, NEW VEHICLES: the standing or placement of new operable automobiles or trucks not previously used.
- (23) STORAGE, OUTSIDE: the outdoor standing or placement of usable and potentially usable goods or equipment other than for display and not including waste or scrap materials.
- (24) STORY: that portion of a building, but not including a cellar, as defined in this Chapter between one (1) floor level and the ceiling next above it and which portion meets the requirements of the Building Code (Chapter 98) for a habitable room.
- (25) A STREET: is any thoroughfare or way, other than a public alley, dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court, terrace, or any similar designations.
- (26) STRUCTURE: anything constructed or erected, the use of which requires location on the ground or attachments to something having location on the ground.

5.9 Definitions (T-Z)

- (1) TOBACCO SPECIALTY RETAIL STORE: an establishment in which the primary purpose is the retail sale of tobacco products and smoking paraphernalia, and in which the sale of other products is incidental. Tobacco specialty retail store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license. (Amended – Ordinance 1619 – 3/9/14)
- (2) TRAILER COACH (MOBILE HOME): is a vehicle designed, used, or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons.
- (3) TRAILER COURT, TRAILER CAMP: any plot of ground upon which two (2) or more trailer coaches are parked or where public parking space for two (2) or more trailer coaches is provided with facilities for residential occupancy.

- (4) URBAN OPEN SPACE: Open space shall consist of urban open space:
- (a) Urban Open Space: The following are examples of urban open space, which are located in the ODD districts: A public space that functions as a gathering space or part of a downtown, special subarea (e.g. Southfield City Centre, Southfield Downtown Development Authority, or Southfield Technological Corridor, etc.), or other area within the public realm that helps promote social interaction and create a “sense of place”. Possible examples may include such space as: plazas, “town” squares, parks, marketplaces, public commons and malls, public greens, special areas with convention centers or grounds, sites within buildings (such as lobbies, concourses, or public spaces within public & private buildings). (Amended – Ordinance 1603 – 4/7/13)
- (5) USABLE FLOOR AREA: shall be the sum of the gross horizontal floor areas of all the floors of the building or structure and of all accessory buildings measured from the interior face of the exterior walls and which may be made usable for human habitation but excludes the horizontal floor area of heater rooms, mechanical equipment rooms, attics, unenclosed porches, light shafts, public corridors, public stairwells, and public toilets.
- (6) USABLE MARIHUANA: The dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
- (7) USE, ACCESSORY: a use subordinate to the principal use and for purposes clearly incidental to those of the principal use.
- (8) USE, PRINCIPAL: the primary use to which the premises are devoted and the primary purpose for which the premises are used.
- (9) VISITING QUALIFYING PATIENT: A patient who is not a resident of this state or who has been a resident of this state for less than 30 days.
- (10) WRITTEN CERTIFICATION: A document signed by a physician, stating all of the following:
- a. The patient’s debilitating medical condition.
 - b. The physician has completed a full assessment of the patient’s medical history and current medical condition, including a relevant, in-person, medical evaluation.
 - c. In the physician’s professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient’s debilitating medical condition or symptoms associated with the debilitating medical condition.

- (11) YARD, FRONT: is an open space extending the full width of a lot and of a uniform depth measured horizontally at right angles to the front lot line, unoccupied from the ground upward.
- (12) YARD, REAR: a rear yard is an open space extending the full width of a lot and of a uniform depth measured horizontally at right angles to the rear lot line unoccupied from the ground upward, except as hereinafter specified.
- (13) YARD, SIDE: a side yard is an open space extending from the front yard to the rear yard and of a uniform width measured horizontally at right angles to the side lot line and unoccupied from the ground upward, except as hereinafter specified.
- (14) ZONING VARIANCE: is a modification of the literal provision of this Chapter granted when strict enforcement of this Chapter would cause practical difficulty or undue hardship owing to the circumstances unique to the individual property on which the variance is granted. The crucial points of a variance are practical difficulty, undue hardship, and unique circumstances applying to the specific property involved. A variance is not justified unless all elements are present in each case.

ARTICLE 19, LIGHT INDUSTRIAL DISTRICTS (I-L)

THE CODE OF THE CITY OF SOUTHFIELD IS HEREBY AMENDED BY ADDING A NEW SECTION 5.179, USES PERMITTED SUBJECT TO SPECIAL APPROVAL AND LICENSING, TO CHAPTER 45, ZONING, WHICH SHALL READ AS FOLLOWS:

SECTION 1.

5.179 Uses Permitted Subject to Special Approval and Licensing

The following uses may be permitted upon the review and approval of the City Council after a recommendation from the Planning Commission. The use or uses shall only be approved when the following conditions have been satisfied and all licensing provisions in Chapter 86 have been met. This section promotes and protects the public health, safety and welfare and mitigates potential deleterious impacts to surrounding properties and persons and conforms with the policies and requirements of the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law 1 (MMMA), MCL 333.26421, et seq. (hereinafter “MMMA”), as amended. A use which purports to have engaged in the medical use of marihuana either prior to enactment of said Act, or after enactment of said Act but without being legally registered by the Department, shall be deemed to not be a legally established use, and therefore not entitled to legal non-conforming status under the provisions of City Ordinance and/or State Law. The fundamental intent of this section is to facilitate a private and confidential qualified patient and primary caregiver relationship whereby the cultivation, distribution and use of marihuana is strictly for medical purposes. Accordingly, this section permits authorization for activity in compliance with the MMMA. Nothing in this section shall be construed as allowing a person or persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the MMMA and this section; and, nothing in this section shall be construed to undermine or provide immunity from federal law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marihuana.

(1) Uses

(a) A Medical Marihuana Facility shall be subject to the following conditions:

- (1) Any parcel within 500 feet of a residentially zoned district or “drug-free school zone”; any parcel within 500 feet of a parcel that contains a house, adult regulated use, school, church, child care facility or park; and any parcel within 1,500 feet to any Pawn Shops or Alternative Financial Services establishment, shall not qualify for a Medical Marihuana Facility.
- (2) A State of Michigan registry identification card and a valid license issued pursuant to Chapter 86 of the Southfield City Code is required for all Medical Marihuana Facilities operated by a primary caregiver. If the primary caregiver is not the owner of the premises, then consent must be obtained in writing from the property owner to ensure the owner’s knowledge of the use.
- (3) Licenses issued pursuant to Chapter 86, in addition to any state issued license, permit or certification shall be conspicuously posted on the premises.

- (4) Usable marihuana on site, when not actively distributed, shall be kept or stored within an indoor enclosed locked facility accessible only to caregivers and/or qualifying patients, as permitted under Article II, Definitions.
- (5) Marihuana, if cultivated on site, shall be kept within an indoor enclosed locked facility as defined in Article II, Definitions, of this Chapter.
- (6) Consumption of marihuana on the premises is prohibited.
- (7) There shall be no outdoor, open use or display of marihuana upon the licensed premises.
- (8) A Medical Marihuana Facility shall distribute marihuana for medical use only as authorized and in the manner permitted by the Michigan Medical Marihuana Act P.A. 2008, as amended.
- (9) No more than five qualified patients per primary caregiver. The amount of usable marihuana stored at the Medical Marihuana Facility for each patient shall be limited to: 2.5 ounces of usable marihuana (excludes seeds, stalks, and roots) and 12 marihuana plants kept in an indoor enclosed locked facility as defined under the Michigan Medical Marihuana Act P.A. 2008, as amended and as noted by the licensing requirements of Chapter 86.
- (10) The Medical Marihuana Facility shall be subject to periodic and unannounced inspections to ensure compliance with all applicable laws and regulations, including, but not limited to State law and City Ordinances.
- (11) Hours of operations permitted: Monday-Friday: 9:00 A.M. - 9:00 P.M.; Saturday: 9:00 A.M. - 6:00 P.M.; Sunday: 10:00 A.M. - 6:00 P.M.
- (12) Minimum Distance from one medical marihuana facility to another shall be 250 feet.
- (13) Drive-thru facilities shall be prohibited.
- (14) Security and Lighting: A security and lighting plan shall be submitted for review and approval by the City Planning and Building Departments.
- (15) A conspicuous sign(s) shall be posted stating that "No loitering is permitted" on such property.
- (16) Entry into the premises by persons under the age of eighteen (18) is prohibited unless they are a qualifying patient and accompanied by a parent or legal guardian.
- (17) The location from which a primary caregiver manufacturers, stores and distributes medical marihuana to a qualifying patient shall not be used by another primary caregiver for any purpose whatsoever.
- (18) Electrical, plumbing and all other inspections required by city ordinance, must be obtained and all necessary permits must be obtained confirming that all lights, plumbing, equipment and all other means proposed to be used to facilitate the growth or cultivation of marihuana plants is in conformance with all applicable codes; prior to the commencement of operation as a Medical Marihuana Facility.

- (19) Caregiver activity shall not be advertised as, or permitted to operate as a “Medical Marihuana Provisioning Center”, “Safety Compliance facility”, “Dispensary,” “Compassion Club”, “clinic” or “hospital”. A qualified caregiver and any other person authorized under the MMMA to assist patients, if any, shall distribute medical marihuana only on a confidential, one to one basis, with no other caregivers being present at the approved facility, provided, however, that a qualified patient’s immediate family members or guardian may be present.
- (20) Nothing in this Section shall permit or be construed or interpreted to permit a medical marihuana dispensary, provisioning center, safety compliance facility, or compassion club, and those or similar activities or uses are expressly prohibited hereunder.

SECTION 2.

Should any section, clause, or paragraph of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same will not affect the validity of the Ordinance as a whole or part thereof other than the part declared to be invalid.

SECTION 3.

All ordinances or part of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 4.

This Ordinance is deemed to be an emergency ordinance for the health, safety and welfare of the residents of the City of Southfield, and will take effect upon publication.

DONALD F. FRACASSI, Acting Mayor

NANCY L.M. BANKS, City Clerk

Introduced: 02/23/15
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