



City of Hartford * County of Van Buren * State of Michigan

**PLANNING COMMISSION MEETING AGENDA
FEBRUARY 26, 2024, 7:30 p.m.**

- 1. Call to Order**
- 2. Roll Call Ackerman; Fuller; Gardner; J. Kling; T. Kling; Morales;**
- 3. Approval of Agenda**
- 4. Public Hearing -**
 - Discuss & Consider – Proposed Amendments to Marihuana Ordinance no. 341-2023 & 342-2023**
 - Discuss & Consider – Proposed Amendments to Zoning Ordinance no. 343-2024 amendment for 151.291, 151,309, 151.310, and 151.311**
- 5. Adjourn**

**CITY OF HARTFORD
COUNTY OF VAN BUREN
STATE OF MICHIGAN
PROPOSED AMENDMENT OF ORDINANCE 307-10 & 320-2020**

ORDINANCE NO. 341 - 2023

AN ORDINANCE TO ADD A NEW SUBCHAPTER ENTITLED “MARIJUANA BUSINESSES” TO TITLE XI OF THE HARTFORD CITY CODE TO PROVIDE FOR THE AUTHORIZATION OF MARIJUANA BUSINESSES OPERATED IN ACCORDANCE WITH STATE LAW AND THE CITY’S ZONING ORDINANCE

The City of Hartford ordains:

Section 1. Amendment. A new subchapter entitled “Marijuana Businesses” is hereby added to Title XI of the Hartford City Code to read in its entirety as follows:

Marijuana Businesses

Sec. 110.11. Definitions.

The following words and phrases have the meanings ascribed to them when used in this subchapter:

- (a) *Co-located business* means a marijuana business with 2 or more types of state operating licenses operating within a single location.
- (b) *Designated consumption establishment* means a business licensed as a designated consumption facility under the MRTMA.
- (c) *Excess marijuana grower* means a business licensed as an excess marijuana grower under the MRTMA.
- (d) *Grower* means a business licensed as a grower under either the MMMFLA, the MRTMA, or both.
- (e) *LARA* means the department of licensing and regulatory affairs and any successor agency to the department.
- (f) *Location-specific step* means the portion of the application for a state operating license under the MMMFLA and the MRTMA that follows the prequalification step and pertains to the details of the proposed location.
- (g) *Marijuana* means, depending on the context, the same thing as “marihuana” as defined in the MMMFLA, the MRTMA, or both.
- (h) *Marijuana business* or *business* is a business involving one or more licenses issued under the MMMFLA, the MRTMA, or both.
- (i) *Microbusiness* means a business a business licensed as a marijuana microbusiness under the MRTMA.
- (j) *MMMA* means the Michigan medical marihuana act, 2008 IL 1, as amended MCL 333.26424 *et seq.*
- (k) *MMMFLA* means the Michigan medical marihuana facilities licensing act, 2016 PA 281, as amended, MCL 333.27102 *et seq.*
- (l) *MRTMA* means the Michigan regulation and taxation of marihuana act, 2018 IL 1, as amended MCL 333.27951 *et seq.*

- (m) *Prequalification step* means the portion of the application for a state operating license under the MMMFLA or MRTMA pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons.
- (n) *Processor* means a business licensed as a processor under either the MMMFLA, the MRTMA, or both.
- (o) *Provisioning center* means a business licensed as a provisioning center under the MMMFLA. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through LARA's marijuana registration process in accordance with the MMMA is not a provisioning center for purposes of this section.
- (p) *Retailer* means a person licensed under the MRTMA to obtain marijuana from marijuana establishments and to sell or otherwise transfer marijuana to marijuana establishments and to individuals who are 21 years of age or older.
- (q) *Safety compliance business* means a person licensed as a safety compliance facility under the MMMFLA, the MRTMA, or both.
- (r) *Secure transporter* means a person licensed as a secured transporter under the MMMFLA, the MRTMA, or both.
- (s) *Stacked grower licenses* means two or more grower licenses issued to a single person to *under the MMMFLA or MRTMA*.
- (t) *State operating license or license* means a license that is issued under the MMMFLA or MRTMA to operate as a grower, processor, secure transporter, provisioning center, retailer, safety compliance facility, or microbusiness.
- (u) *Temporary marijuana event* means an event where the onsite sale or consumption of marijuana products, or both, are authorized at the location indicated on a state operating license issued under the MRTMA during the specified dates.

Sec. 110.12. Authorization Required; Numerical Limitations.

- (a) Marijuana businesses may be authorized to operate in the City of Hartford pursuant to this division and the City's zoning ordinance.
- (b) No business listed in subsection (a) may operate in the City of Hartford without a final authorization granted by the City Clerk pursuant to Section 110.13(d). A proposed business is not eligible for a state operating license until the clerk grants final authorization.
- (c) The number of state operating licenses for marijuana businesses shall be limited as follows:
 - (1) Designated consumption establishments (adult-use) – 2 licenses
 - (2) Growers (medical and adult-use) and excess marijuana growers (adult-use) – 13 licenses
 - (3) Microbusinesses (adult-use) – 3 license
 - (4) Processors (medical and adult-use) – 5 licenses
 - (5) Provisioning centers (medical) and retailers (adult-use) – 4 licenses
 - (6) Safety compliance (medical and adult-use) – 2 licenses
 - (7) Secure transporters (medical and adult-use) – 2 licenses
 - (8) Temporary marijuana events (adult-use) – 4 licenses

These limitations reflect the total number of available licenses in each category. The City anticipates that licenses will be co-located on various parcels, meaning that the total number of parcels containing marijuana businesses will be lower than the total number of licenses in use in the City.

Sec. 110.13. Application Process.

- (a) *Submission.* A person may apply for authorization to operate a marijuana business within the City by submitting the following items to the City on a standardized application form prepared by the City Clerk. These items may be submitted to the Clerk before applying for requisite zoning approvals:
- (1) A copy of official paperwork issued by LARA indicating that the applicant has successfully completed the prequalification step of the application for a state operating license.
 - (2) A signed statement from the applicant indicating:
 - (A) The current property owner of record for the proposed business location;
 - (B) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicant's. Only one application shall be submitted per property. Co-located businesses may be requested on a single application;
 - (C) The address, tax identification number, and zoning designation of the proposed business location;
 - (D) The type or types of state operating licenses that the applicant is seeking at the proposed business location (e.g., medical grower, adult-use grower, provisioning center, etc.); and
 - (E) If the proposed business involves stacked grower licenses, the number of licenses sought.
 - (3) An advance of the annual administrative fee established in Section 110.15(d).
- (b) *Clerk action upon receipt.* The city clerk will accept and receive any application that includes the required items listed above and will date-stamp such application upon receipt.
- (c) *Conditional authorization.* The city clerk will conditionally authorize applications as follows:
- (1) The day after an application is received, the city clerk will conditionally authorize the application upon determining that if such application, if granted, could not cause the total number of licenses for any business type to exceed the numerical limitations listed in section 110.12(c) above. In making this determination, the city clerk shall assume that: (A) all marijuana businesses that are currently in operation will remain in operation; and (B) all conditionally authorized applications will result in the issuance of the number of state operating licenses that have been requested. If the city clerk determines that the application would cause the total number licenses for one or more business types to exceed the numerical limitations listed in section 110.12(c), the city clerk shall deny the application.
 - (2) If a situation arises in which the city clerk receives two or more applications in a single day, such that:
 - (A) one or more of the applications could be granted without exceeding the numerical limitations in section 110.12(c); but
 - (2) granting all of such applications would cause one or more numerical limitations to be exceeded;

The City Clerk shall refer the applications to City Commission. The City Commission will then determine which of the applications will be conditionally authorized pursuant to a competitive process established by resolution of the City Commission.
- (d) *Final authorization.* The city clerk will grant final authorization for the business if the conditionally authorized applicant:

- (1) Obtains all required zoning approvals for the business within 12 months of receiving conditional authorization; and
 - (2) Obtains the requisite state operating license within 18 months of receiving conditional authorization.
- (e) *Expiration of conditional authorization.* If the applicant for a conditionally authorized business fails to satisfy any of the deadlines established above, the conditional authorization will expire.

Sec. 110.14. Relocation of Businesses, Transfers of Licenses, and Expansion of Grow Operations.

- (a) An existing business may be moved to a new location in the City, subject to applicable zoning regulations and required approvals by LARA.
- (b) A license for an existing business may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by LARA.
- (c) No further City approvals are required for the relocations and license transfers described in this section.
- (d) A licensee may expand growing operations by upgrading the class of the license (e.g., from class A to class B, or from class B to Class C), or by obtaining a stacked license. To do so, the licensee must submit a new application to the City satisfying the requirements in Section 31-3(a), which shall include payment of any additional annual administrative fee that will be owed due to the addition of stacked licenses. The application shall be conditionally approved upon receipt of all required materials.

Sec. 110.15. General Regulations

- (a) *Submission of supplementary information to the City.* Applicants who have received conditional authorization and licensees operating in the City must provide the Clerk with copies of all documents submitted to LARA in connection with the license application, subsequent renewal applications, or investigations conducted by LARA. The documents must be provided to the Clerk within 7 days of submission to LARA, and may be submitted by electronic media unless otherwise requested by the Clerk.
- (b) *Compliance with applicable laws and regulations.* Marijuana businesses must be operated in compliance with the MMMFLA and/or MRTMA, as applicable, all applicable rules promulgated by LARA, all conditions of the business's state operating licenses, and all applicable ordinances and codes, including the City's zoning ordinance. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.
- (c) *No consumption on premises.* No smoking, inhalation, or other consumption of marijuana shall take place on or within the premises of any marijuana business approved under this division, except for designated marijuana consumption establishments. It shall be a violation of this subchapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marijuana on or within a premises in violation of this section:
 - (1) The person had control over the premises or the portion of the premises where the marijuana was consumed;
 - (2) The person knew or reasonably should have known that the marijuana was consumed; and
 - (3) The person failed to take corrective action.
- (d) *Annual fee.* A licensee must pay a fee an annual fee, set by resolution of the City Commission, for each license used within the City in order to help defray administrative and enforcement costs. The initial annual fee(s) must be paid to the Clerk when the application for approval is submitted.

In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license.

Sec. 110.16. Violations and penalties.

- (a) *Request for revocation of state operating license.* If at any time an authorized business violates this subchapter or any other applicable ordinance, the City may request that LARA revoke or refrain from renewing the business’s state operating license.
- (b) *Civil infraction.* It is unlawful to disobey, neglect, or refuse to comply with any provision of this subchapter. A violation of this subchapter is a municipal civil infraction and a nuisance per se. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to a fine of up to \$500.
- (c) *Other remedies.* The foregoing sanctions are in addition to the City’s right to seek other appropriate and proper remedies, including actions in law or equity.

Section 2. Repealer; Effect on Existing Businesses. Ordinance 320-2020 is hereby repealed. All marijuana business that were granted state operating licenses to operate pursuant to Ordinance 320-2020 or its predecessor ordinance that remain in operation as of the effective date of this ordinance are deemed to have been granted final authorization under this ordinance. All applications that were submitted pursuant to Ordinance 320-2020 that remain pending as of the effective date of this ordinance shall be deemed to be conditionally authorized hereunder as of the date the application was received. The regulations provided in this ordinance apply to all marijuana businesses in the City from its effective date onward.

Section 3. Publication and Effective Date. The City Clerk shall cause this ordinance to be published in a newspaper of general circulation in the City, and the ordinance shall be effective 20 days after enactment or upon publication, whichever is later.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This true and complete copy of Ordinance No. ____ was declared adopted at a regular meeting of the Hartford City Commission held on _____, 2023.

 , Mayor

 , City Clerk

PC Hearing: February 26, 2024

Introduced: _____, 2023

Adopted: _____, 2023

Published: _____, 2023

Effective: _____, 2023

**CITY OF HARTFORD
COUNTY VAN BUREN COUNTY
STATE OF MICHIGAN
PROPOSED AMENDMENT OF ORDINANCE 307-10 & 320-2020**

ORDINANCE NO. 342 -2023

AN ORDINANCE TO AMEND ZONING SECTIONS 151.091, 151.106, 151.122, AND 151.136 TO THE HARTFORD CITY CODE, AND TO ADD A NEW SECTION 151.217, TO REGULATE MARIJUANA BUSINESSES AS PERMITTED LAND USES IN VARIOUS ZONING DISTRICTS

The City of Hartford Ordains:

Section 1. Amendment. Zoning sections 151.091, 151.106, 151.122, and 151.136, of the Hartford City Code are hereby amended as follows:

Sec. 151.091. PERMITTED USES IN THE B-1 DISTRICT.

- (A) Churches, funeral homes, and mortuaries;
- (B) All generally recognized retail businesses which supply commodities on the premises such as, but not limited to, groceries, meats, dairy products, dry goods, other foods, drugs, clothing, notions, hardware, or pharmaceuticals;
- (C) Personal service establishments which perform services on the premises within a completely enclosed building, such as, but not limited to: repair shops for items such as watches, radios, televisions; shoes; tailor shops; beauty parlors; barber shops; interior decorators; photographers; and dry cleaners;
- (D) Restaurants and taverns where the general public are served while seated within a building occupied by the establishment, except drive-in restaurants and open-front stores;
- (E) Theaters, private clubs, lodge halls, and other like places of entertainment when completely enclosed;
- (F) Office and office buildings of an executive, administrative, or professional function;
- (G) Banks, including drive-in facilities incidental to the principal banking function;
- (H) Municipal buildings and post offices;
- (I) Offices and showrooms for tradespeople, such as plumbers, electricians, decorators, and similar trades, except that:
 - (1) Not more than 25% of the floor area in the building is used for the purpose of making, assembling, remodeling, repairing, altering, finishing, or refinishing the products;
 - (2) Ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display; and
 - (3) All storage or materials shall be within the confines of the building situated thereon.
- (J) Business schools, private schools, and other places of instruction for profit;
- (K) Newspaper offices and printing plants;
- (L) Warehouse and storage facilities incidental to and physically connected with any of the foregoing uses;

- (M) Veterinary offices, hospitals, and clinics;
- (N) Dwelling connected with the foregoing uses, provided they do not occupy the ground floor;
- (O) Parking lots and parking structures;
- (P) Accessory structures customarily incident to the above permitted uses;
- (Q) Parks, playgrounds, walking paths, and trails;
- (R) The following marijuana businesses:
 - (1) Designated consumption establishments (adult-use);
 - (2) Microbusinesses (adult-use);
 - (3) Provisioning centers (medical);
 - (4) Retailers (adult-use);
 - (5) Safety compliance (medical and adult-use);
 - (6) Secure transporters (medical and adult-use);
- (S) Signs in accordance with the provisions of Section 151.235.

Sec. 151.106. PERMITTED USES IN THE B-2 DISTRICT.

- (A) All permitted uses in the B-1 Central Business District, except marijuana secure transporters;
- (B) Automobile sales and showroom facilities, and farm equipment and implement dealers;
- (C) Bus passenger stations;
- (D) Automobile car wash facilities within closed structures;
- (E) Public utility offices, transformer stations, telephone exchanges, exchange stations, pump stations, service yards, exclusive, however, of outdoor storage facility;
- (F) Retail cold storage facilities;
- (G) Self-service laundry and dry cleaning establishments;
- (H) Bowling alleys;
- (I) Pool halls, billiard parlors, clubs, and similar indoor recreational facilities;
- (J) Closed storage facilities for the storage of materials which are to be sold at retail;
- (K) Other uses which are similar to the above uses;
- (L) Outdoor sales space and facilities for new and used automobiles, farm equipment, mobile homes, house trailers, travel trailers, and like merchandise, provided that:
 - (1) Ingress and egress shall be at least 60 feet from the intersection of any 2 streets; and
 - (2) No major repair or major refinishing shall be done on the site.
- (M) Motels, hotels, and inns, except that:
 - (1) Ingress and egress shall not interfere with adjacent business uses;
 - (2) No kitchen or cooking facilities shall be provided except in a single full-time residential unit of manager or caretaker, unless approval of a special use permit is granted as provided in Section 151.290 et seq.; and
 - (3) Each unit shall contain not less than 200 square feet of floor area.

- (N) Drive-in restaurants, open front stores, and similar facilities, except that:
- (1) Facilities shall be set back at least 60 feet from the street right-of-way of any existing or proposed major thoroughfare; and
 - (2) Ingress and egress shall be located at least 60 feet from the intersection of any 2 streets.
- (O) Commercially used, outdoor recreational space for children's amusement parks, miniature golf course, and similar facilities, except that:
- (1) A children's amusement park shall be fenced on all sides by a fence or wall at least 4 feet in height; and
 - (2) Adequate parking shall be provided for, located off of the road right-of-way, and shall be fenced with a 4-foot by 6-inch wall or fence.
- (P) Parks, playgrounds, walking paths, and trails;
- (Q) The following marijuana businesses:**
- (1) Designated consumption establishments (adult-use);**
 - (2) Microbusinesses (adult-use);**
 - (3) Provisioning centers (medical);**
 - (4) Retailers (adult-use);**
 - (5) Safety compliance (medical and adult-use);**
- (R) Signs in accordance with the provisions of Section 151.235.

Sec. 151.122. PERMITTED USES IN THE LI DISTRICT.

- (A) The manufacturing, compounding, processing, packaging, or treatment of the products as candy, cosmetics, drugs, perfumes, pharmaceuticals, and food products, except the rendering or refining of fats and/or oils;
- (B) The manufacturing, compounding, assembly, or treatment of articles from previously prepared materials, including, but not by way of limitation of, cellophane, canvas, clay, cloth, cork, feathers, felt, fibers, fur, glass, hair, leather, paint, paper, plastics, precious or semi-precious metals and/or stones, shell, rubber, tin, iron, steel, tobacco, wood, and/or yam;
- (C) Petroleum storage facilities, provided that the facility shall not exceed the capacity of 2,500 gallons in any one tank and the facility shall not be within 500 feet from any residentially zoned property. Any petroleum storage tank or facility shall be wholly underground and conform to the requirements of the Michigan Department of Environmental Quality and the State Fire Marshall's Office;
- (D) Machine shops, and printing and book binding facilities;
- (E) Warehousing and wholesale storage and distribution facilities;
- (F) Other similar limited industrial enterprises, provided, however, that the similarity of use shall be determined upon proper application by the City of Hartford Planning Commission;
- (G) Any use customarily incidental to the permitted principal use;
- (H) The foregoing specific and general descriptions shall not be construed to permit the establishment of junkyards, automobile graveyards, automobile dismantling operations or facilities, and like operations;
- (I) Parks, playgrounds, walking paths, and trails;

(J) The following marijuana businesses:

- (1) Designated consumption establishments (adult-use);
- (2) Growers (medical and adult-use) and excess marijuana growers (adult-use);
- (3) Microbusinesses (adult-use);
- (4) Processors (medical and adult-use);
- (5) Provisioning centers (medical);
- (6) Retailers (adult-use);
- (7) Safety compliance (medical and adult-use);
- (8) Secure transporters (medical and adult-use);

(K) Signs in accordance with Section 151.235.

Sec. 151.136. PERMITTED USES IN THE I DISTRICT.

- (A) Facilities and the principal function of which is basic research, design, and pilot experimental product development when conducted within a completely enclosed facility;
- (B) A facility for the manufacturing, compounding, or processing of materials into a finished product within an enclosed building;
- (C) Warehouse and wholesale establishments and trucking facilities;
- (D) Public utilities, including buildings, necessary structures, storage yards, transformer plants, and like uses;
- (E) Water supply and sewage disposal plants, water and gas tank holders, railroad transfer and storage tracks, railroad rights-of-way, freight terminals, telephone exchanges, transformer stations, and substation of similar utility-oriented activities. Municipal uses, such as water treatment plants and reservoirs, and municipal buildings, including outdoor storage therefor;
- (F) Commercial kennels;
- (G) Greenhouses;
- (H) Trade or industrial schools;
- (I) Lumber and planning plants;
- (J) Freestanding non-accessory signs;
- (K) Outdoor storage facilities for things such as building materials, sand, gravel, stone, lumber, contractor equipment, and supplies, provided that same is contained within an obstructing wall or fence on the sides abutting residential or business districts of not less than 5 feet in height. The fence may be a chain linked fence with a heavy green shrubbery with masonry or other suitable material to obstruct the view. Other uses similar to and no more objectionable in character in the above uses;
- (L) Auto engine, body repair, and undercoating shops when completely enclosed;
- (M) Metal plating, buffing, and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances;
- (N) Metal casting foundries, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances to adjacent business or residential areas;
- (O) Printing plants including its ancillary uses, such as the casting of type smelting or typing material;

- (P) Accessory buildings and uses customarily incident to the above permitted uses;
- (Q) Outdoor automotive permanent race tracks are permitted only after a special use has been granted by the Planning Commission. The Planning Commission shall place restrictions on the use and operation of the facility so as to minimize the effects of the surrounding area and the community. The developers must first submit a detailed site plan to the Planning Commission prior to the Planning Commission holding a required public hearing;
- (R) The following marijuana businesses:
 - (1) Designated consumption establishments (adult-use);
 - (2) Growers (medical and adult-use) and excess marijuana growers (adult-use);
 - (3) Microbusinesses (adult-use);
 - (4) Processors (medical and adult-use);
 - (5) Provisioning centers (medical);
 - (6) Retailers (adult-use);
 - (7) Safety compliance (medical and adult-use);
 - (8) Secure transporters (medical and adult-use);
- (S) Signs in accordance with Section 151.235.

Section 2. Addition. A new zoning section 151.217 is added to the Hartford City Code to read as follows:

Sec. 151.217. Marijuana businesses.

- (A) *Definitions*. All terms defined in Title XI of the City Code have the same meaning when used in this section or sections 151.091, 151.106, 151.122, and 151.136.
- (B) *Regulations and Conditions*. Marijuana businesses are permitted in the City's commercial and industrial zoning districts as indicated in Sections 151.091, 151.106, 151.122, and 151.136, subject to site-plan review by the Planning Commission and compliance with the following regulations and conditions:
 - (1) Marijuana businesses must comply with the MMMFLA, the MRTMA, and any applicable rules promulgated under either statute.
 - (2) Marijuana businesses shall not be located within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12 or within 500 feet of a house of worship. These spacing limitations shall be computed by measuring a straight line from the nearest property line on the lot used a school or house of worship to the nearest property line of the lot used as a marijuana business. This subsection modifies requirement modifies and supersedes the default spacing limitations provided in Section 9 of the MRTMA.
 - (3) Co-located marijuana businesses and stacked grower licenses may be permitted, subject to the regulations in this section and any applicable rules promulgated by LARA.
 - (4) No marijuana business may operate without first obtaining final authorization for each state operating license from the city clerk pursuant to Title XI of the City Code. Marijuana businesses in existence in the City as of the date of this ordinance shall be deemed to have received final authorization.

- (5) Marijuana businesses (including both the building and surrounding site) shall be sufficiently designed in a manner to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
- (6) Applicants must provide a plan for the storage and disposal of marijuana or chemicals associated with marijuana cultivation, so as to minimize the risk of theft or harm resulting from chemical exposure. At no time should byproducts be deposited into the ground.
- (7) No marijuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marijuana overnight in an outdoor waste bin.
- (8) The outdoor storage of trash or rubbish shall be appropriately screened.
- (9) Signage for marijuana businesses is subject to approval pursuant to the generally applicable procedures and standards provided in this ordinance, with the additional restriction that signs shall not contain images or text designed to appeal to persons under legal age to consume marijuana. By way of example but not of limitation, signs shall not include cartoon characters, images of youthful persons, or slang terminology for marijuana that may be designed to appeal to minors (e.g., “weed” or “kush”).
- (10) The cultivation and processing of marijuana must be conducted in a manner that minimizes adverse impacts on the public sanitary sewer and natural environment.
- (11) Marijuana businesses must control and eliminate odor as follows:
 - (a) The building must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system.
 - (b) The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - (c) The air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufacturers’ recommendation to ensure optimal performance.
 - (d) Negative air pressure must be maintained inside the building.
 - (e) Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - (f) An alternative odor control system is permitted if the special use applicant submits a report by a mechanical engineer licensed in the state of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.
- (12) For growers and excess marijuana growers:
 - (a) Cultivation must occur within an enclosed building with exterior facades (not including windows) consisting of opaque materials typical of an industrial or commercial building. Windows shall be arranged in such a way that marijuana plants are not visible from the exterior of the building.
 - (b) The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or rigid polycarbonate or fiberglass panels. Films or

other non-rigid materials cannot be used to construct any component of the building’s exterior structure.

- (13) For provisioning centers, retailers, microbusinesses, and designated consumption establishments:
 - (a) Provisioning centers, retailers, microbusinesses, and designated consumption establishments may not be open to customers between the hours of 9:00 p.m. and 9:00 a.m.
 - (b) Provisioning centers, retailers, microbusinesses, and designated consumption establishments may not receive deliveries between the hours of 8:00 p.m. and 7:00 a.m.
 - (c) The exterior appearance of a provisioning center, retailer, microbusiness or designated consumption establishment must be compatible with surrounding businesses with respect to façade type, ground floor opacity, size and placement of signage, site layout, etc.
 - (d) The interior of the building must be arranged in a way such that neither marijuana, marijuana-infused products, nor paraphernalia are visible from the exterior of the building.
 - (e) Marijuana retailers and provisioning centers may offer curbside service or remote delivery service to the extent permitted under state law. Any marijuana retailer offering curbside service must indicate on its proposed site plan where curbside customers will park and must adequately mark such parking spaces as being reserved for curbside customers. Drive-through window service is prohibited.
 - (f) Temporary marijuana events must meet the requirements of state law and have a special use event license issued by the Clerk.

Section 3. Effective Date. This ordinance shall become effective 20 days after its adoption or upon its publication, whichever occurs later.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This true and complete copy of Ordinance No. ____ was declared adopted at a regular meeting of the Hartford City Commission held on _____, 2023.

, Mayor

, City Clerk

PC Hearing: February 26, 2024

Introduced: _____, 2023

Adopted: _____, 2023

Published: _____, 2023

Effective: _____, 2023

**CITY OF HARTFORD
COUNTY OF VAN BUREN
STATE OF MICHIGAN
PROPOSED AMENDMENT OF ORDINANCE**

ORDINANCE NO. 343 - 2024

AN ORDINANCE TO AMEND ZONING SECTIONS 151.291, 151.309, 151.310, AND 151.311, AND ZONING SUBSECTIONS 151.136(Q), 151.181(B), THE DEFINITION OF “SPECIAL USE” WITHIN SECTION 151.4, AND THE OPENING PARAGRAPH OF SECTION 151.340 OF THE HARTFORD CITY CODE, AND TO ADD NEW ZONING SECTIONS 151.337, 151.338, AND 151.339, TO PROVIDE STANDARDS AND PROCEDURES FOR THE FOR REVIEW OF SPECIAL USE APPLICATIONS AND VARIANCE REQUESTS

The City of Hartford Ordains:

Section 1. Amendment. Zoning sections 151.291, 151.309, 151.310, and 151.311 of the Hartford City Code are hereby amended as follows:

Sec. 151.291. Approval of Special Uses and Site Plans.

- (A) Special uses shall be reviewed and approved by the City Commission, after recommendation by the Planning Commission, as provided in the “Provisions for Special Establishments and Operations” division of this chapter. (Zoning Ordinance § 151.338 et seq.).
- (B) Site plans shall be reviewed and approved by the Zoning Administrator or Planning Commission as provided “Site Plan Review” division of this chapter (Zoning Ordinance § 151.250 et seq.), or shall be City Commission as part of the special-use approval process, as applicable.

Sec. 151.309. Jurisdiction.

- (A) The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this Ordinance, but does have the power to act on those matters where this ordinance provides for an administrative review, interpretation, appeal, or variance approval process, and on any such other matters as are within the jurisdiction of the Zoning Board of Appeals pursuant to the Michigan Zoning Enabling Act, as amended.
- (B) The powers of the Zoning Board of Appeals include the following:
 - (1) *Administrative appeals*. To hear and decide appeals by an aggrieved party involving an alleged error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this ordinance.
 - (2) *Variance*. To consider a dimensional variance from the strict application of the provisions of this ordinance in accordance with the standards, requirements, and procedures of this Article. The Zoning Board of Appeals shall not have the authority to consider use variances.
 - (3) *Zoning ordinance interpretation*. To interpret the provisions of this ordinance to carry out the intent and purposes of this ordinance where the meaning of the provisions is uncertain.
 - (4) *Temporary use permits*. To issue temporary use permits pursuant to the standards and procedures in section 151.311.

- (5) *Miscellaneous matters.* To hear and decide other matters referred to it or upon which the Zoning Board of Appeals is expressly required to decide under the terms of this ordinance.
- (C) In deciding administrative appeals, the Zoning Board of Board Appeals may reverse or affirm wholly or partly, or may modify the orders, requirements, decision, or determination appealed from and may make the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer or board from whom/which the appeal is taken.
- (D) In deciding a request for ordinance interpretation, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the ordinance, the section in which the language in question is contained, and all other relevant provisions of the ordinance.
- (E) Notwithstanding any other provision of this ordinance, the Zoning Board of Appeals shall have no authority to hear appeals for special land uses, planned developments, zoning amendments, or any other decision of the Planning Commission or City Commission unless such authority is specifically granted by this ordinance.

Sec. 151.310. Variances.

- (A) *Dimensional (non-use) variances.* The Zoning Board of Appeals shall have the power to grant requests for variances from the provisions of this ordinance where it is demonstrated by the applicant that there exist practical difficulties in the way of carrying out the strict letter of this ordinance. To grant a dimensional (non-use) variance, the Zoning Board of Appeals must find that all of the following factors exist:
- (1) There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - (a) Exceptional narrowness, shallowness, or shape of a specific property; or
 - (b) Exceptional topographic conditions or other extraordinary situation on the land, building, or structure; or
 - (c) A circumstance arising due to the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this ordinance would involve practical difficulties.
 - (2) The condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
 - (3) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity.
 - (4) Strict compliance with the requirements of this ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome or impractical.
 - (5) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 - (6) The variance will not impair the intent and purpose of this ordinance.
 - (7) The variance requested is the minimum amount necessary to overcome or mitigate the

difficulty.

- (8) The immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant or the applicant's predecessors in title.
- (B) *Use Variances.* The Zoning Board Appeals shall have no authority to grant requests to establish a use not otherwise permitted within a zoning district.
- (C) *Period of Validity.* A variance shall be valid for one year from the date of approval by the Zoning Board of Appeals. If the terms of the variance have not been exercised within that period, or if construction associated with the variance has not been commenced with completion being diligently pursued, then the variance shall be considered null and void.
- (D) *Extensions.* The applicant may request in writing an extension of the variance for up to six months. The Zoning Administrator may grant the extension if the original circumstances authorizing the variance have not changed and if the circumstances creating the need for the extension were beyond the control of the applicant. The Zoning Administrator may refer any request for an extension to the Zoning Board of Appeals for a decision.

Sec. 151.311. Temporary Use Permits.

Temporary uses of any size and temporary buildings and structures less than three hundred (300) square feet in area may be placed on a lot or parcel of record and occupied under the following conditions as authorized by a temporary zoning permit issued by the Zoning Board of Appeals, upon a finding that such uses, buildings, or structures will not unduly interfere with the use and enjoyment of abutting properties. Written notice shall be mailed to the owners of abutting properties at least 7 days before the meeting at which a temporary use permit is to be considered:

- (A) A temporary building or structure may be erected during the renovation of a permanent building. The temporary building or structure must be removed when repair of damage is complete, but in no case shall it be located on the lot or parcel for more than twelve months, except that the Zoning Board Appeals may extend the duration of the temporary use due to extenuating circumstances provided that work on the permanent building is proceeding diligently toward completion.
- (B) Temporary buildings and structures incidental to construction work may be permitted so long as such building or structure is not intended to be occupied as a dwelling. Said temporary buildings or structures shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed more than twelve (12) months.
- (C) Temporary buildings incidental to a religious institution or school may be permitted for up to 12 months, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector, and by applicable state agencies.
- (D) Temporary sales uses:
- (1) Upon application, the Zoning Board of Appeals may issue a zoning permit for the temporary sale of merchandise related to a temporary or periodic event. Such merchandise shall be limited to small seasonal items and merchandise including but not limited to Christmas trees, fireworks, and similar items. Temporary sale events of large items such as automobiles, boats, RVs, construction equipment items are prohibited, unless specifically authorized as a permanent principal land use.
 - (2) The display and sale of Christmas trees may also be permitted at a church or campground, provided it is incidental and accessory to the principal use.

- (3) A zoning permit for the display and sale of merchandise shall be valid for a period not to exceed forty-five (45) days.
 - (4) All unsold trees must be removed from the property by December 31 of each calendar year.
 - (5) No temporary land use permit is necessary for Christmas tree sales where a nursery is permitted by right or as a special land use.
- (E) Temporary recreational uses such as archery ranges, golf driving ranges, ropes courses, etc. may be permitted for up to 12 months. Any temporary buildings or structures shall be removed within fifteen (15) days after the use ceases.

Section 2. Amendment of Subsections. Zoning subsections 151.136 (Q), 151.181(B), the definition of “Special Use” in section 151.4, and the opening paragraph of section 151.340 of the Hartford City Code are hereby amended as follows:

151.136(Q).

Outdoor automotive permanent race tracks are permitted only after a special use has been granted. The special use authorization may include restrictions on the use and operation of the facility so as to minimize the effects of the surrounding area and the community; and

151.181(B).

However, the City Commission may specify a height limit for the structure when the structure requires authorization as a special use.

Definition of “Special Use” in Section 151.4

A use that can be permitted by the City Commission only after a public hearing and recommendation by the Planning Commission and only upon compliance with the standards specified in this chapter to provide adequate protection to the neighborhood and to abutting properties.

Opening Paragraph of Section 151.340

In the district in which mobile home parks are permitted as a special use, the following minimum requirements shall apply:

Section 3. Addition. New zoning sections 151.337, 151.338 and 15.339 are added to the “Provisions for Special Establishments and Operations” division of chapter 151 of the Hartford City Code to read as follows:

Sec. 151.337. Purpose.

This ordinance contemplates the development of a variety of land uses within the City’s zoning districts. It is recognized that there are some land uses which, because of their unique characteristics, may only be appropriate in particular locations and under certain circumstances, which are deemed special land uses. Therefore, this division provides a set of procedures and standards for these special land uses that require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards in this division are designed to allow reasonable use of land while maintaining adequate protection of the health, safety, convenience, and general welfare of the City of Hartford. For purposes of this ordinance, all land uses or situations that are referred to as special land uses or are deemed to require special land use approval are subject to the standards of this division.

Sec. 151.338. Application Procedure.

A special land use permit is required prior to the commencement of any special land use in the City of Hartford. The application for a permit shall be processed under the following procedures:

- (A) *Application.* An application for a special land use permit shall be submitted to the Zoning Administrator not less than 45 days prior to the next scheduled Planning Commission meeting. Upon receipt of an application, the Zoning Administrator shall review the application for completeness, and when complete, transmit it to the Planning Commission.
- (B) *Required Information.* An application for special land use approval shall be accompanied by the following documents and information:
- (1) An application form that has been completed in full by the applicant.
 - (2) The payment of any applicable application and escrow fees as established by resolution of the City Commission.
 - (3) A site plan meeting the requirements of this ordinance.
 - (4) A written narrative outlining compliance with Section 151.339 and any other requirements of this ordinance relating to the proposed special land use.
 - (5) Any additional information deemed necessary by the Zoning Administrator, Planning Commission, or City Commission that will enable the Planning Commission and City Commission to determine the impact of the proposed special land use on the adjacent properties, public infrastructure, and community as a whole. Such information may include, but is not limited to, traffic impact analysis or reports and/or testimony by officials representing state, county, or local departments of public safety (police and fire), health, highways or roads, and/or environment.
- (C) *Public Hearing Required.* Upon receipt of the materials required above, the Planning Commission shall hold a public hearing on the application, providing notice of such hearing in accordance with state law.
- (D) *Planning Commission Review.* After the public hearing, the Planning Commission shall review the application for special land use, comments received at the public hearing, the site plan, and any other materials submitted in relation to the application. Within a reasonable time following the receipt of all materials, the Planning Commission shall make a recommendation to the City Commission for the approval, approval with conditions, or denial of the special land use application. In arriving at its recommendation, the Planning Commission shall refer to and be guided by those standards set forth in this division and any other standards in this ordinance applicable to the proposed special land use.
- (E) *City Commission Review.* As soon as reasonably possible following the recommendation by the Planning Commission, the City Commission shall consider the recommendation and render a decision on the application. The City Commission shall not be bound to follow the recommendation of the Planning Commission. A special land use shall be approved if it meets all applicable requirements of this ordinance.
- (F) *Issuance of a Special Land Use Permit.* A special land use permit shall be issued by the Zoning Administrator upon the approval of the special land use by the City Commission and upon the fulfillment of any required conditions of approval. The special land use permit shall list all the conditions of approval stipulated by the City Commission. The Zoning Administrator shall forward copies of the special land use permit to the applicant and the City Clerk.
- (G) *Performance Guarantee.* In authorizing a special land use permit, the City Commission may require a performance guarantee.
- (H) *Appeals.* Appeals from any decision or condition related to a special land use application shall only be taken to Circuit Court; no decision related to a special land use application shall be appealed to the Zoning Board of Appeals.

- (I) *Amendments.* Amendments to special land use permits shall be handled in the same manner as the initial special land use application. Minor non-substantive changes to a special land use, as determined by the Zoning Administrator, may be made to an existing special land use permit with the approval of the Zoning Administrator.
- (J) *Transfers.* Unless specifically provided for in this Ordinance or by a condition of special land use approval, a special land use shall run with the land, and any and all associated benefits, conditions, and required security, shall transfer to a new owner upon the sale or transfer of the property in question, unless otherwise voluntarily withdrawn or abandoned by the new owner. Upon transfer, a special land use permit may continue to be exercised, provided that the new owner complies with the terms of the original permit, including all associated conditions of approval and applicable provisions of this ordinance.
- (K) *Re-Submission.* No petition for special land use approval which has been disapproved may be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the Zoning Administrator after learning of new and significant facts or conditions that may result in favorable action upon resubmission.
- (L) *Construction.* A special land use approved pursuant to this division shall either be under substantial construction, or operations exercising the permit shall have commenced, within one year after the date of approval.
- (M) *Expiration.* A special land use permit shall run with the land and shall be valid for as long as the approved use continues in accordance with all terms and conditions of the permit. The special land use permit will expire on the occurrence of one or more of the following conditions:
- (1) If replaced or superseded by a subsequent permitted use or special land use.
 - (2) If the applicant or current owner of the property requests that the special land use permit be rescinded.
 - (3) If the special use is considered abandoned pursuant to subsection (M) below.
 - (4) If a building permit has not been obtained or if on-site development has not commenced within one year of approval of the special land use.
- (N) *Abandonment.* Any permitted special land use shall be considered abandoned, and such use shall not be resumed thereafter, if the use has ceased for at least 6 months and one or more of the following conditions exist. Such conditions are deemed to constitute an intent on the part of the property owner to abandon the use:
- (1) Utilities such as water, gas, or electricity to the property have been disconnected;
 - (2) The property, buildings, or grounds have fallen into disrepair or otherwise clearly indicate that the property is vacant; Signs or other indications of the existence of the nonconforming use have been removed;
 - (3) Removal of buildings, structures, equipment, or fixtures that are necessary for the continuation or operation of the use;
 - (4) Other actions that constitute an intention on the part of the property owner or lessee to abandon the use.
- (O) *Violations.* A violation of the terms, conditions, or limitations of a special land use permit shall be a violation of this ordinance and shall be cause for revocation or suspension of the permit.

- (1) Upon identifying a violation of the special land use permit, the Zoning Administrator shall inform the property owner and/or permit holder in writing of such violation. The permit holder shall be given a reasonable opportunity to correct the violation.
 - (2) If, after a reasonable time, the violation has not been cured, the Zoning Administrator shall refer the matter in writing to the Planning Commission.
 - (3) Upon referral, the Planning Commission shall review the matter and if it determines that a violation exists, it shall provide notice to the permit holder and all alleged violations shall be specified in such notice. Before recommending suspension or revocation of the permit, the Planning Commission shall hold a public hearing on the matter.
 - (4) Following a public hearing, and after providing a reasonable opportunity for the permit holder to cure the violation(s), the Planning Commission may recommend that the City Commission revoke or suspend, pending correction of the violation, any special land use permit. In revoking or suspending the permit, the City Commission shall make a finding that a material violation of the special land use permit exists.
 - (5) A special land use permit that has been revoked may not be reinstated until a new special land use permit is granted pursuant to this chapter. A special land use permit that has been suspended may be reinstated by the City Commission, after recommendation of the Planning Commission, upon finding that all violations have been cured.
- (P) *Previously Approved Special Land Uses.* Land uses that were granted zoning approval by the City prior to the adoption of this ordinance may continue and shall be considered permitted uses, provided that the requirements and conditions of the original permit are met. If changes are proposed to a previously-approved use that is considered to be a special land use by this Ordinance, the application shall be processed according to the procedures and standards of this Chapter.

Sec. 151.339. Special Land Use Review Standards.

- (A) In addition to standards for specific special land uses contained in the sections that follow, the City Commission must find that the following general standards are met in order to approve a special land use:
- (1) The proposed special land use shall be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and the use will not change the essential character of the area in which it is proposed.
 - (2) The proposed special land use shall not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental or hazardous to existing or future uses, or to any persons, property, or the general welfare by reason of excessive production of traffic, lighting, noise, smoke, vibration, water runoff, fumes, glare, or odors.
 - (3) The proposed special land use shall be consistent with the policies of the City's master plan.
 - (4) The proposed special land use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, stormwater drainage, refuse disposal, water, and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
 - (5) The proposed special land use shall ensure that the environment shall be preserved in its

natural state, insofar as practicable, by minimizing tree and soil removal and minimizing topographic modifications.

(6) The proposed special land use shall comply with all applicable local, state, and federal regulations and requirements.

(B) In approving a special land use, the City Commission may require additional conditions and safeguards. Failure to comply with such conditions may result in the revocation of the special land use approval. Conditions imposed on a special land use shall be designed to:

- (1) Meet the intent and purpose of this ordinance;
- (2) Relate to the standards established in the ordinance for the land use or activity under consideration with the subject application;
- (3) Ensure compliance with those standards;
- (4) Protect the general welfare; and
- (5) Protect individual property rights.

Section 4. Effective Date. This ordinance shall become effective 20 days after its adoption or upon its publication, whichever occurs later.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This true and complete copy of Ordinance No. ____ was declared adopted at a regular meeting of the Hartford City Commission held on _____, 2024.

, Mayor

, City Clerk

PC Hearing: February 26, 2024

Introduced: _____, 2024

Adopted: _____, 2024

Published: _____, 2024

Effective: _____, 2024

Sec. 151.291. Approval of Special Uses and Site Plans.

- (A) Special uses shall be authorized reviewed and approved by the City Commission, after recommendation by the Planning Commission only after holding a public hearing duly advertised and proper notice given to all residents, as provided in the “Provisions for Special Establishments and owners Operations” division of record of property within 300 feet of the property in question, the notices to this chapter. (Zoning Ordinance § 151.338 et seq.).
- (B) Site plans shall be delivered personally reviewed and approved by the Zoning Administrator or by mail addressed to the respective owners at the address given in the last assessment roll. The Planning Commission shall notify the applicant of the approval as provided “Site Plan Review” division of this chapter (Zoning Ordinance § 151.250 et seq.), or rejection shall be City Commission as part of the special land use permit within 10 days of the Planning Commission meeting scheduled for purpose of action on the applicants request after the public hearing.-use approval process, as applicable.
- (B) If the proposed special land use requires the issuance of a variance by the Zoning Board of Appeals, the Planning Commission shall transmit the findings, recommendations, and approval (or disapproval) to the Zoning Board of Appeals for consideration pursuant to the provisions of ' 151.313. (Ord. 134, passed- - ; Am. Ord. 194, ' 2001, passed 2-24=1997)

Sec. 151.309. Jurisdiction.

- (A) The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter Ordinance, but does have the power to act on those matters where this chapter ordinance provides for an administrative review, interpretation, exception appeal, or special variance approval, permit process, and to authorize a variance on any such other matters as defined in this section and are within the laws jurisdiction of the State Zoning Board of Appeals pursuant to the Michigan Zoning Enabling Act, as amended.
- (B) The powers of the Zoning Board of Appeals include the following:
- (1) *Administrative review appeals.* To hear and decide appeals where it is alleged by the appellant that there is an aggrieved party involving an alleged error in any order, requirement, permit, decision, or refusal made by the Code Enforcement Officer Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this chapter ordinance.
 - (2) *Variance.*
 - (a) To authorize, upon an appeal, a consider a dimensional variance from the strict applications application of the provisions of this chapter where by reason of exceptional narrowness, shallowness, shape, or area of a specific piece of property at the time of enactment of this chapter or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of the property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of the property, provided the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter.
 - (b) In granting a variance, the Board may attach thereto the conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this chapter. In granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance.
 - (3) *Exceptions and special approval.* To hear and decide ordinance in accordance with the provisions of this chapter, requests for exceptions, for interpretations of the Zoning Map, and

for decisions on special approval situations on which this chapter specifically authorizes the Board to pass. Any exception or special approval shall be subject to the conditions as the Board may require to preserve and promote the character of the zone district in question and otherwise promote the purpose of this chapter, including the following:

- (a) Interpret the provisions of this chapter in a way as to carry out the intent and purpose of the plan, as shown upon the Zoning Map fixing the use districts, accompanying and made part of this chapter, where street layout actually on the ground varies from the street layout as shown on the map aforesaid;
- (b) Permit the erection and use of a building or use of premises for public utility purposes, upon recommendation of the Planning Commission;
- (c) Permit the modification of the automobile parking space or loading space standards, requirements where, in the particular instance, the modification will not be inconsistent with the purpose and intent of the requirements;
- (d) Permit the modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of the shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without the modifications;
- (e) Permit temporary buildings and uses for periods not to exceed 6 months;
- (f)
 - 1. Permit, upon proper application, the following character of temporary use, not otherwise permitted in any district, not to exceed 12 months with the granting of 12-month extensions being permissible: uses which do not require the erection of any capital improvement of a structural nature.

2., and procedures of this Article. The Zoning Board of Appeals, in granting permits for the above temporary uses, shall do so under the following conditions: shall not have the authority to consider use variances.

- a. The granting of (3) *Zoning ordinance interpretation*. To interpret the temporary use shall in no way constitute a change in provisions of this ordinance to carry out the basic uses permitted in intent and purposes of this ordinance where the district nor on meaning of the property wherein the provisions is uncertain.
- (4) *Temporary use permits*. To issue temporary use is permitted; permits pursuant to the standards and procedures in section 151.311.
 - b. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted, (5) *Miscellaneous matters*. To hear and arrangements for removing the use at the termination of the temporary permit;
 - c. All setbacks, land coverage, off-street parking, lighting, and decide other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the city shall be made at the discretion of matters referred to it or upon which the Zoning Board of Appeals; is expressly required to decide under the terms of this ordinance.
 - d. In classifying uses as not requiring capital improvement, the Zoning Board of Appeals shall determine that they are either demountable structures related to the permitted use of the plan; recreation development such as, but not limited to, golf

driving ranges and outdoor archery courts, or structures which do not require foundations, heating systems, or sanitary connections;

- e. The use shall be in harmony with the general character of the district; and
- f. No temporary permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this chapter. Further, the Zoning Board of Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.
- (g) Permit modification of wall requirements when only the modification will not adversely affect or be detrimental to surrounding or adjacent developments.

(4) Appeals and variations.

- (a) In consideration of all appeals and all proposed variations to this chapter, the Board shall, before making any variations from the chapter in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in the public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.
- (b) The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirements, decisions, or determination of the Code Enforcement Officer or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.
- (c) Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change this chapter or the Zoning Map, the power and authority being reserved to the Mayor and the City Commission of the City of Hartford in the manner provided by law.

(C) In deciding administrative appeals, the Zoning Board of Board Appeals may reverse ~~Sec. 151.310.~~
Orders.

In exercising the above powers, the Board may reserve or affirm wholly or partly, or may modify the orders, requirements, decision, or determination appealed from and may make the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Code Enforcement Officer or board from whom/which the appeal is taken. (Ord. 134, passed - - ; Am. Ord, 194, ' 2105, passed 2-24-1997)

- (D) In deciding a request for ordinance interpretation, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the ordinance, the section in which the language in question is contained, and all other relevant provisions of the ordinance.
- (E) Notwithstanding any other provision of this ordinance, the Zoning Board of Appeals shall have no authority to hear appeals for special land uses, planned developments, zoning amendments, or any other decision of the Planning Commission or City Commission unless such authority is specifically granted by this ordinance.

Sec. 151.310.

Variances.

- (A) *Dimensional (non-use) variances.* The Zoning Board of Appeals shall have the power to grant requests for variances from the provisions of this ordinance where it is demonstrated by the

applicant that there exist practical difficulties in the way of carrying out the strict letter of this ordinance. To grant a dimensional (non-use) variance, the Zoning Board of Appeals must find that all of the following factors exist:

- (1) There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - (a) Exceptional narrowness, shallowness, or shape of a specific property; or
 - (b) Exceptional topographic conditions or other extraordinary situation on the land, building, or structure; or
 - (c) A circumstance arising due to the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this ordinance would involve practical difficulties.
 - (2) The condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
 - (3) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity.
 - (4) Strict compliance with the requirements of this ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome or impractical.
 - (5) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 - (6) The variance will not impair the intent and purpose of this ordinance.
 - (7) The variance requested is the minimum amount necessary to overcome or mitigate the difficulty.
 - (8) The immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant or the applicant's predecessors in title.
- (B) *Use Variances.* The Zoning Board Appeals shall have no authority to grant requests to establish a use not otherwise permitted within a zoning district.
- (C) *Period of Validity.* A variance shall be valid for one year from the date of approval by the Zoning Board of Appeals. If the terms of the variance have not been exercised within that period, or if construction associated with the variance has not been commenced with completion being diligently pursued, then the variance shall be considered null and void.
- (D) *Extensions.* The applicant may request in writing an extension of the variance for up to six months. The Zoning Administrator may grant the extension if the original circumstances authorizing the variance have not changed and if the circumstances creating the need for the extension were beyond the control of the applicant. The Zoning Administrator may refer any request for an extension to the Zoning Board of Appeals for a decision.

Sec. 151.311. Temporary Use Permits.

Temporary uses of any size and temporary buildings and structures less than three hundred (300) square feet in area may be placed on a lot or parcel of record and occupied under the following conditions as authorized by a temporary zoning permit issued by the Zoning Board of Appeals, upon a finding that such uses, buildings, or structures will not unduly interfere with the use and enjoyment of abutting properties. Written notice shall be mailed to the owners of abutting properties at least 7 days before the meeting at which a temporary use permit is to be considered:

- (A) A temporary building or structure may be erected during the renovation of a permanent building. The temporary building or structure must be removed when repair of damage is complete, but in no case shall it be located on the lot or parcel for more than twelve months, except that the Zoning Board Appeals may extend the duration of the temporary use due to extenuating circumstances provided that work on the permanent building is proceeding diligently toward completion.
- (B) Temporary buildings and structures incidental to construction work may be permitted so long as such building or structure is not intended to be occupied as a dwelling. Said temporary buildings or structures shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed more than twelve (12) months.
- (C) Temporary buildings incidental to a religious institution or school may be permitted for up to 12 months, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector, and by applicable state agencies.
- (D) Temporary sales uses:
 - (1) Upon application, the Zoning Board of Appeals may issue a zoning permit for the temporary sale of merchandise related to a temporary or periodic event. Such merchandise shall be limited to small seasonal items and merchandise including but not limited to Christmas trees, fireworks, and similar items. Temporary sale events of large items such as automobiles, boats, RVs, construction equipment items are prohibited, unless specifically authorized as a permanent principal land use.
 - (2) The display and sale of Christmas trees may also be permitted at a church or campground, provided it is incidental and accessory to the principal use.
 - (3) A zoning permit for the display and sale of merchandise shall be valid for a period not to exceed forty-five (45) days.
 - (4) All unsold trees must be removed from the property by December 31 of each calendar year.
 - (5) No temporary land use permit is necessary for Christmas tree sales where a nursery is permitted by right or as a special land use.
- (E) Temporary recreational uses such as archery ranges, golf driving ranges, ropes courses, etc. may be permitted for up to 12 months. Any temporary buildings or structures shall be removed within fifteen (15) days after the use ceases.

Section 2. Amendment of Subsections. Zoning subsections 151.136 (Q), 151.181(B), the definition of "Special Use" in section 151.4, and the opening paragraph of section 151.340 of the Hartford City Code are hereby amended as follows:

151.136(Q).

Outdoor automotive permanent race tracks are permitted only after a special use has been granted by the Planning Commission. The Planning Commission shall place. The special use authorization may include restrictions on the use and operation of the facility so as to minimize the effects of the

surrounding area and the community. The developers must first submit a detailed site plan to the Planning Commission prior to the Planning Commission holding a required public hearing; and

151.181(B).

However, the Board of Appeals City Commission may specify a height limit for the structure when the structure requires their authorization as a special use.

Definition of “Special Use” in Section 151.4

(1) A use that can be permitted by the Planning City Commission only after review and a public hearing and recommendation by the Planning Commission and only upon compliance with conditions the standards specified in this chapter or as may be reasonably imposed by the Planning Commission to provide adequate protection to the neighborhood and to abutting properties.

(2) Variances, if required, are granted by the Zoning Board of Appeals in accordance with ' ' 151.305 et seq.

Opening Paragraph of Section 151.340

In the district in which mobile home parks are permitted as a special use issued by the Planning Commission, the following minimum requirements shall apply.:

Section 3. Addition. New zoning sections 151.337, 151.338 and 15.339 are added to the “Provisions for Special Establishments and Operations” division of chapter 151 of the Hartford City Code to read as follows:

Sec. 151.337. Purpose.

This ordinance contemplates the development of a variety of land uses within the City’s zoning districts. It is recognized that there are some land uses which, because of their unique characteristics, may only be appropriate in particular locations and under certain circumstances, which are deemed special land uses. Therefore, this division provides a set of procedures and standards for these special land uses that require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards in this division are designed to allow reasonable use of land while maintaining adequate protection of the health, safety, convenience, and general welfare of the City of Hartford. For purposes of this ordinance, all land uses or situations that are referred to as special land uses or are deemed to require special land use approval are subject to the standards of this division.

Sec. 151.338. Application Procedure.

A special land use permit is required prior to the commencement of any special land use in the City of Hartford. The application for a permit shall be processed under the following procedures:

(A) *Application*. An application for a special land use permit shall be submitted to the Zoning Administrator not less than 45 days prior to the next scheduled Planning Commission meeting. Upon receipt of an application, the Zoning Administrator shall review the application for completeness, and when complete, transmit it to the Planning Commission.

(B) *Required Information*. An application for special land use approval shall be accompanied by the following documents and information:

- (1) An application form that has been completed in full by the applicant.
- (2) The payment of any applicable application and escrow fees as established by resolution of the City Commission.
- (3) A site plan meeting the requirements of this ordinance.

- (4) A written narrative outlining compliance with Section 151.339 and any other requirements of this ordinance relating to the proposed special land use.
- (5) Any additional information deemed necessary by the Zoning Administrator, Planning Commission, or City Commission that will enable the Planning Commission and City Commission to determine the impact of the proposed special land use on the adjacent properties, public infrastructure, and community as a whole. Such information may include, but is not limited to, traffic impact analysis or reports and/or testimony by officials representing state, county, or local departments of public safety (police and fire), health, highways or roads, and/or environment.
- (C) *Public Hearing Required.* Upon receipt of the materials required above, the Planning Commission shall hold a public hearing on the application, providing notice of such hearing in accordance with state law.
- (D) *Planning Commission Review.* After the public hearing, the Planning Commission shall review the application for special land use, comments received at the public hearing, the site plan, and any other materials submitted in relation to the application. Within a reasonable time following the receipt of all materials, the Planning Commission shall make a recommendation to the City Commission for the approval, approval with conditions, or denial of the special land use application. In arriving at its recommendation, the Planning Commission shall refer to and be guided by those standards set forth in this division and any other standards in this ordinance applicable to the proposed special land use.
- (E) *City Commission Review.* As soon as reasonably possible following the recommendation by the Planning Commission, the City Commission shall consider the recommendation and render a decision on the application. The City Commission shall not be bound to follow the recommendation of the Planning Commission. A special land use shall be approved if it meets all applicable requirements of this ordinance.
- (F) *Issuance of a Special Land Use Permit.* A special land use permit shall be issued by the Zoning Administrator upon the approval of the special land use by the City Commission and upon the fulfillment of any required conditions of approval. The special land use permit shall list all the conditions of approval stipulated by the City Commission. The Zoning Administrator shall forward copies of the special land use permit to the applicant and the City Clerk.
- (G) *Performance Guarantee.* In authorizing a special land use permit, the City Commission may require a performance guarantee.
- (H) *Appeals.* Appeals from any decision or condition related to a special land use application shall only be taken to Circuit Court; no decision related to a special land use application shall be appealed to the Zoning Board of Appeals.
- (I) *Amendments.* Amendments to special land use permits shall be handled in the same manner as the initial special land use application. Minor non-substantive changes to a special land use, as determined by the Zoning Administrator, may be made to an existing special land use permit with the approval of the Zoning Administrator.
- (J) *Transfers.* Unless specifically provided for in this Ordinance or by a condition of special land use approval, a special land use shall run with the land, and any and all associated benefits, conditions, and required security, shall transfer to a new owner upon the sale or transfer of the property in question, unless otherwise voluntarily withdrawn or abandoned by the new owner. Upon transfer, a special land use permit may continue to be exercised, provided that the new owner complies with the terms of the original permit, including all associated conditions of approval and applicable provisions of this ordinance.

- (K) *Re-Submission*. No petition for special land use approval which has been disapproved may be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the Zoning Administrator after learning of new and significant facts or conditions that may result in favorable action upon resubmission.
- (L) *Construction*. A special land use approved pursuant to this division shall either be under substantial construction, or operations exercising the permit shall have commenced, within one year after the date of approval.
- (M) *Expiration*. A special land use permit shall run with the land and shall be valid for as long as the approved use continues in accordance with all terms and conditions of the permit. The special land use permit will expire on the occurrence of one or more of the following conditions:
- (1) If replaced or superseded by a subsequent permitted use or special land use.
 - (2) If the applicant or current owner of the property requests that the special land use permit be rescinded.
 - (3) If the special use is considered abandoned pursuant to subsection (M) below.
 - (4) If a building permit has not been obtained or if on-site development has not commenced within one year of approval of the special land use.
- (N) *Abandonment*. Any permitted special land use shall be considered abandoned, and such use shall not be resumed thereafter, if the use has ceased for at least 6 months and one or more of the following conditions exist. Such conditions are deemed to constitute an intent on the part of the property owner to abandon the use:
- (1) Utilities such as water, gas, or electricity to the property have been disconnected;
 - (2) The property, buildings, or grounds have fallen into disrepair or otherwise clearly indicate that the property is vacant; Signs or other indications of the existence of the nonconforming use have been removed;
 - (3) Removal of buildings, structures, equipment, or fixtures that are necessary for the continuation or operation of the use;
 - (4) Other actions that constitute an intention on the part of the property owner or lessee to abandon the use.
- (O) *Violations*. A violation of the terms, conditions, or limitations of a special land use permit shall be a violation of this ordinance and shall be cause for revocation or suspension of the permit.
- (1) Upon identifying a violation of the special land use permit, the Zoning Administrator shall inform the property owner and/or permit holder in writing of such violation. The permit holder shall be given a reasonable opportunity to correct the violation.
 - (2) If, after a reasonable time, the violation has not been cured, the Zoning Administrator shall refer the matter in writing to the Planning Commission.
 - (3) Upon referral, the Planning Commission shall review the matter and if it determines that a violation exists, it shall provide notice to the permit holder and all alleged violations shall be specified in such notice. Before recommending suspension or revocation of the permit, the Planning Commission shall hold a public hearing on the matter.
 - (4) Following a public hearing, and after providing a reasonable opportunity for the permit holder to cure the violation(s), the Planning Commission may recommend that the City Commission revoke or suspend, pending correction of the violation, any special land use

permit. In revoking or suspending the permit, the City Commission shall make a finding that a material violation of the special land use permit exists.

- (5) A special land use permit that has been revoked may not be reinstated until a new special land use permit is granted pursuant to this chapter. A special land use permit that has been suspended may be reinstated by the City Commission, after recommendation of the Planning Commission, upon finding that all violations have been cured.
- (P) *Previously Approved Special Land Uses.* Land uses that were granted zoning approval by the City prior to the adoption of this ordinance may continue and shall be considered permitted uses, provided that the requirements and conditions of the original permit are met. If changes are proposed to a previously-approved use that is considered to be a special land use by this Ordinance, the application shall be processed according to the procedures and standards of this Chapter.

Sec. 151.339. Special Land Use Review Standards.

- (A) In addition to standards for specific special land uses contained in the sections that follow, the City Commission must find that the following general standards are met in order to approve a special land use:
 - (1) The proposed special land use shall be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and the use will not change the essential character of the area in which it is proposed.
 - (2) The proposed special land use shall not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental or hazardous to existing or future uses, or to any persons, property, or the general welfare by reason of excessive production of traffic, lighting, noise, smoke, vibration, water runoff, fumes, glare, or odors.
 - (3) The proposed special land use shall be consistent with the policies of the City's master plan.
 - (4) The proposed special land use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, stormwater drainage, refuse disposal, water, and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
 - (5) The proposed special land use shall ensure that the environment shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal and minimizing topographic modifications.
 - (6) The proposed special land use shall comply with all applicable local, state, and federal regulations and requirements.
- (B) In approving a special land use, the City Commission may require additional conditions and safeguards. Failure to comply with such conditions may result in the revocation of the special land use approval. Conditions imposed on a special land use shall be designed to:
 - (1) Meet the intent and purpose of this ordinance;
 - (2) Relate to the standards established in the ordinance for the land use or activity under consideration with the subject application;

- (3) Ensure compliance with those standards;
- (4) Protect the general welfare; and
- (5) Protect individual property rights.