AMENDMENT TO KALAMAZOO CHARTER TOWNSHIP ZONING ORDINANCE

An Ordinance to add certain forms of adult use marijuana special licenses as special uses in some zoning districts; to provide standards for such adult use special licenses as special land uses; to provide an effective date; and to repeal all ordinances or parts of ordinances in conflict herewith.

THE CHARTER TOWNSHIP OF KALAMAZOO
KALAMAZOO COUNTY, MICHIGAN
ORDAINS:

SECTION I
ADDITION OF ARTICLE 8, SECTION 8.02 XX
TO THE KALAMAZOO CHARTER TOWNSHIP ZONING ORDINANCE

Article 8 “Site Development Standards Related to Specific Uses” Section 8.02 “Scope of Requirements” subsection XX is hereby added to the Charter Township of Kalamazoo Zoning Ordinance to read as follows:

“XX. Adult Use Marijuana Special Licenses:

1. General regulations: An Adult Use Marijuana Special Licenses for Excess Marijuana Growers in accordance with the provisions of state law, may be permitted through the issuance of a special use permit pursuant to Article 26 Section 26.03 in the specified zone(s), provided that:

   a. Any uses or activities found by the state of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the Township. In the event that a court with jurisdiction declares some or all of this article invalid, then the Township may suspend the acceptance of applications for special use permits
pending the resolution of the legal issue in question.

b. For a special use permit the Adult Use Marijuana Special License must be licensed by the state of Michigan and then must be at all times in compliance with the laws of the state of Michigan including but not limited to the Michigan Regulation and Taxation of Marijuana Act, Initiated Act 1 of 2018 (MCL 333.27951 – 333.27967 et seq.); and all other applicable rules promulgated by the State of Michigan.

c. The use or facility must be at all times in compliance with all other applicable laws, codes and ordinances of the Township as well as the State of Michigan Fire Code as amended/updated, and the State Building Code. The provisions of the current NFPA-1 related to marijuana facilities are hereby incorporated by reference as if fully restated herein. NFPA 1 of 2018 is available at the office of the Township Fire Marshal and at the office of the Township Attorney for reference as may be necessary. The Township Fire Marshal shall review all applications for compliance with the current marijuana rules in the most recent NFPA-1 and any and all other applicable fire codes facilities rules.

d. The Township may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section, all other applicable provisions of this zoning ordinance, and/or the terms of the special use permit and approved site plan are not met.

e. Signage requirements for marijuana facilities, unless otherwise specified, are as provided in the Article 7.00 Signs.

2. Application and Approval: After receiving the application for the grant of a special land use permit for Adult Use Marijuana Special License, accompanied by the required plans, specifications and permit fees, the Planning Commission shall hold a public hearing and review the application following the procedures required for special land use uses set forth in Section 26.03.

Following such hearing, said Planning Commission shall grant or deny the application and set forth its reasons for its decision.

a. Review and Rescission: In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. The Planning Commission shall provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. The Planning Commission shall be empowered to revoke a special land use permit where standards and conditions are not complied with. No permit shall be
revoked until the operator has been given written notice of any violation forming the basis of such revocation and not less than fourteen (14) days have elapsed to correct the said violation. All permits shall be reviewed by the Planning Commission annually.

The operator shall be required to pay a fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.

b. **Liability Insurance**

All operators shall be required to carry personal injury and property damage insurance while the Adult Use marijuana facility exists, in the amount of not less than $1,000,000.00 (one million dollars) for each person or property injured or damaged and not less than $2,000,000.00 (two million dollars) for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. The policy of insurance provided herewith shall name the township as an additional insured. A copy of the policy shall be filed with the Township Clerk.

3. **Adult Use Marijuana Excess Grower License** shall be subject to the following standards:

a. **Location.** An Adult Use Marijuana Excess Grower License may be permitted to operate at any location in an industrial (I-1 or I-2) zoning district approved for either a Medical Marijuana Grower or an Adult Use Marijuana Grower.

b. **Indoor Activities.** All activities of an Adult Use Marijuana facility, including all transfers of marijuana, shall be conducted within the structure and out of public view. Lighting within a building used for growing Adult Use marijuana shall not be visible outside of the building.

c. **Other Activities.** Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the Adult Use Marijuana business.

d. **Physical Appearance.** The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.

e. **Buffer Zones.**
(i). An Adult Use marijuana business shall not be located within a 1,000-foot radius of a pre-existing:
   (1) Property occupied by a public or private elementary, or secondary school building providing education in kindergarten or any of grades 1 through 12; **NOTE: Does not include home schools.**
   (2) Public library.

(ii). An Adult Use marijuana business shall not be located within a 500-foot radius of any property occupied by:
   (1) A public playground;
   (2) A public park;
   (3) Public housing;
   (4) A religious institution;
   (5) A public or private, vocational school, college, junior college, or university;
   (6) A state licensed child care center or preschool;
   (7) Any public swimming pool, public or private youth activity facility, public outdoor recreation area (except trails), or public recreation facility;
   (8) A youth center;
   (9) A juvenile or adult half-way house;
   (10) Correctional facility or rehab center;
   (11) Property zoned R-1, R-2, RM-1, RM-2, RM-3, or MHP.

(iii). **Measurement of Buffers.** For purposes of measuring the buffer distance, the buffered uses identified in i. 1 and 2, and ii. 1-12 above shall be called the “protected use”. The distance shall be measured from the zoning district setback line of the above uses (i. 1 and 2, and ii. 1 through 11 plus 12) to the portion of the building, delineated with a firewall, housing the Adult Use marijuana facility, except for (11) which shall be from the property line of the residential uses to the portion of the building, delineated with a firewall, housing the Adult Use marijuana facility. For existing buildings on the protected use property which are lawfully nonconforming by reason of setback, the
measurement shall be taken from the setback line regardless of nonconformity to the building housing the medical marijuana facility.

(iv).  **Measurement of Municipal Boundary Buffers.** A building where an Adult Use marijuana facility is located shall not be located within 250 feet of the Township border with another municipality except where any adjoining property in the adjacent community is zoned for any similar use.

(v).  See buffer diagram B-1 of this Ordinance.

f.  **Odor.** It is the intent of this ordinance that no odor shall be detectable outside of any building where marijuana is present. As used in this subsection, building means the building, or portion thereof, used for marijuana growing, processing, testing, transport storage or sales.

   (i).  The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

   (ii).  The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall 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.

   (iii).  The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every six (6) months or as manufacturer recommended.

   (iv).  Negative air pressure shall be maintained inside the building.

   (v).  Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

   (vi).  An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert at the applicant’s expense to review the alternative system design and advice as to its comparability and whether in the opinion of the expert it should be accepted.

g.  **Security Cameras.** If used, security cameras shall be directed to record only the subject property and may not be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the state of Michigan.

h.  **Waste Management Plan**
The applicant shall establish a waste management plan at a minimum in compliance with state regulations.

i. **Safety Compliance facilities.** A Safety Compliance Facility shall not be located in the same facility as nor under the same ownership as a marijuana grower, processor, retailer or microbusiness.

**SECTION 2**

**EFFECTIVE DATE AND REPEAL**

This ordinance shall take effect eight days following proper publication of notice of its adoption in accordance with and subject to Michigan Public Act 110 of 2006. This Ordinance is supplementary in nature only. As such, no conflicts are noted and there is no need to repeal conflicting ordinances.

**KALAMAZOO CHARTER TOWNSHIP**

Mark E. Miller, Township Clerk
1720 Riverview Drive
Kalamazoo, MI  49004
269-381-8080
www.ktwp.org