

CHARTER TOWNSHIP OF KALAMAZOO

ORDINANCE NO. 595

ADOPTED: February 20, 2018

EFFECTIVE: February 28, 2018

Zoning Ordinance Text Amendments

An ordinance to implement the provisions of PA 281 of 2016, and Ordinance No. 591 “Medical Marijuana Facilities Ordinance” in the Township Zoning Ordinance by defining medical marijuana facilities; designating zoning districts in which such facilities shall be allowed as special land uses; by providing regulations related thereto; by eliminating obsolete definitions in the zoning ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

THE CHARTER TOWNSHIP OF KALAMAZOO

KALAMAZOO COUNTY, MICHIGAN

ORDAINS:

SECTION I

AMENDMENTS TO TOWNSHIP ZONING ORDINANCE

The following amendments, insertions and deletions are hereby made to the Charter Township of Kalamazoo Zoning Ordinance:

Add to the following zoning district's list of possible special land uses the following:

ARTICLE 17 C-1, LOCAL BUSINESS

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Section 17.02 Permitted Uses & Structures

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B. Special Land Uses

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10. A marijuana provisioning center as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.

ARTICLE 18 C-2, COMMERCIAL CORRIDOR DISTRICT

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Section 18.02 Permitted Uses & Structures

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B. Special Land Uses

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23. A marijuana provisioning center as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.

ARTICLE 19 I-1, LIGHT INDUSTRIAL DISTRICT

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Section 19.02 Permitted Uses & Structures

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B. Special Land Uses

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26. A marijuana grower as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.
27. A marijuana processor as authorized *by* the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.
28. A marijuana provisioning center as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.
29. A marijuana secure transporter as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.
30. A marijuana safety compliance facility as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.

ARTICLE 20 I-2, GENERAL INDUSTRIAL DISTRICT

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Section 20.02 Permitted Uses & Structures

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B. Special Land Uses

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- 32. A marijuana grower as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.
- 33. A marijuana processor as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.
- 34. A marijuana provisioning center as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.
- 35. A marijuana secure transporter as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.
- 36. A marijuana safety compliance facility as authorized by the Medical Marihuana Facilities Ordinance and subject to Article 8, Section 8.02, VV.

ADD TO ARTICLE 8.00 THE FOLLOWING SITE DEVELOPMENT STANDARDS

ARTICLE 8 SITE DEVELOPMENT STANDARDS

Section 8.02 Scope of Requirements

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VV. Marijuana grower, marijuana processor, marijuana provisioning center, Marijuana secure transporter, and Marijuana safety compliance facility:

- 1. **General regulations:** A marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, and marijuana safety compliance facility, 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 marijuana facility 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 Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 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, the Medical Marihuana Facilities Ordinance, and/or the terms of the special use permit and approved site plan are not met.
- e. A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.
- f. Signage requirements for marijuana facilities, unless otherwise specified, are as provided in the Article 7.00 Signs.
- g. Application and Approval
After receiving the application for the grant of a special land use permit for medical marijuana facility business 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.
- h. Annual 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. It shall be empowered to renew or extend a special land use permit where all standards and conditions are complied with and may revoke or refuse to renew a permit where noncompliance exists. No permit shall be revoked or not renewed until the operator has been given written notice of any violation forming the basis of such revocation or denial of renewal and not less than thirty (30) 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 an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.
- i. Liability Insurance
All operators shall be required to carry personal injury and property damage insurance while the medical 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.

2. **Marijuana Growers** shall be subject to the following standards:

a. **Buffer Zones.**

- i. A marijuana grower facility shall not be located within a 1,000-foot radius of any property occupied by:
 - (1) A public or private elementary, or secondary school;
 - (2) A public library
- ii. A marijuana grower facility 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 area identified in i. 1 and 2, and ii. 1-11 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 10) to the portion of the building, delineated with a firewall, housing the medical 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 medical 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 a marijuana grower 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.
- vi. See Buffer Diagram B-1 of this Ordinance.
- b. **Building Floor Space.** The following standards apply:

If only a portion of a building is authorized for use in marijuana grow operation, a partition wall of a height as required by the applicable building codes, shall separate the marijuana grow operation space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marijuana production space and the remainder of the building.
- c. **Lighting.** Lighting shall be regulated as follows:

Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
- d. **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 production or marijuana processing.
 - 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 advise as to its comparability and whether in the opinion of the expert it should be accepted.

- e. **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.
- f. **Residency.** As a specific condition of this special use, an owner of the subject property, or the licensee associated with the subject property shall either provide a caretaker residence as defined herein in a separate building with 24-hour staffing or provide a 24-hour, seven-days-a-week staffed security presence on the property. A direct phone number shall be supplied to local law enforcement.
- g. **Waste Management Plan**
The applicant shall establish a waste management plan at a minimum in compliance with state regulations.

3. **Marijuana Processors** shall be subject to the following standards:

- a. **Facilities.** A marijuana processing facility shall be located entirely within a fully enclosed, secure, indoor facility with rigid walls, a roof, and doors and shall comply with all sections of Article 9.00 Performance Standards.
- b. **Buffer.**
 - i. A marijuana processor facility shall not be located within a 1,000-foot radius of any property occupied by:
 - (1) A public or private elementary, or secondary school;
 - (2) A public library
 - ii. A marijuana processor facility 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 area identified in i. 1 and 2, and ii. 1-11 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 10) to the portion of the building, delineated with a firewall, housing the medical 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 medical 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 a marijuana processor 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.
 - c. **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 processing.
 - 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.

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

4. **Marijuana Provisioning Centers** shall be subject to the following standards:

- a. **Location.** A building occupied by a Medical Marijuana Provisioning Center shall not be located within 500 feet of another building occupied by a marijuana provisioning center either in the Township or any adjacent municipality.
- b. **Indoor Activities.** All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view.
- c. **Other Activities.** Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
- 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. A marijuana provisioning center facility shall not be located within a 1,000-foot radius of any property occupied by:
 - (1) A public or private elementary, or secondary school;
 - (2) A public library
 - ii. A marijuana provisioning center facility 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 area identified in i. 1 and 2, and ii. 1-11 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 10) to the portion of the building, delineated with a firewall, housing the medical 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 medical 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 a marijuana provisioning center 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 processing.
- 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.

5. **Marijuana Safety Compliance Facilities** shall be subject to the following standards:

- a. As a Special Use, a marijuana safety compliance facility shall be subject to the regulations and standards applicable to Laboratories and research, testing, design, technical training, and experimental product development facilities in the ordinance.
- b. All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.
- c. If any a portion of a building is authorized for use in the storage of marijuana in any form, a partition wall of a height as required by the applicable building codes, shall separate the marijuana storage space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marijuana storage space and the remainder of the building.
- d. Buffer
 - i. A marijuana safety compliance facility shall not be located within a 1,000-foot radius of any property occupied by:
 - (1) A public or private elementary, or secondary school;
 - (2) A public library
 - ii. A marijuana safety compliance facility 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 area identified in i. 1 and 2, and ii. 1-11 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 10) to the portion of the building, delineated with a firewall, housing the medical 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 medical 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 a marijuana safety compliance 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.
- e. **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 processing.
- 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.
- f. **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.
- g. **Waste Management Plan**
The applicant shall establish a waste management plan at a minimum in compliance with state regulations.

6. **Marijuana Secure Transporters** shall be subject to the following standards:

- a. A marijuana secure transporter shall be subject to the special use regulations and standards applicable to Motor Freight Warehousing uses in in Section 8.02, DD. and the following standards.
- b. If any a portion of a building is authorized for use in the storage of marijuana in any form, a partition wall of a height as required by the applicable building codes, shall separate the marijuana storage space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marijuana storage space and the remainder of the building.
- c. **Buffer.**
 - i. A marijuana secure transporter facility shall not be located within a 1,000-foot radius of any property occupied by:
 - (1) A public or private, elementary, or secondary school;
 - (2) A public library
 - ii. A marijuana secure transporter facility 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 area identified in i. 1 and 2, and ii. 1-11 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 10) to the portion of the building, delineated with a firewall, housing the medical 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 medical 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 a marijuana secure transporter 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.
- d. **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 processing.
- 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.
- e. **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.
- f. **Waste Management Plan**
The applicant shall establish a waste management plan at a minimum in compliance with state regulations.

Revise Article 9.00 Performance Standards

Section 9.02 Performance Standards

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F. Impacts from Other Activities

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- 9. Medical Marijuana facilities.

Revise Article 3.00 Nonconformities

Section 3.03 General Requirements

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M. Medical Marijuana Facilities

- 1. No marijuana facility operating or purporting to operate prior to March 1, 2018, shall be deemed to have been a legally existing use nor shall the operation of such marijuana facility be deemed a legal nonconforming use under this ordinance.
- 2. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any amendment thereto.

Definitions

Add the following definitions to ARTICLE 1.00. Section 1.03 Definitions.

G

"Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.

"Grower, Class A" means a medical marijuana grower authorized to grow not more than 500 Marijuana plants.

"Grower, Class B" means a medical marijuana grower authorized to grow not more than 1,000 marijuana plants.

"Grower, Class C" means a medical marijuana grower authorized to grow not more than 1,500 marijuana plants.

L

"Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

M

"Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act (MMMA), MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

"Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

O

"Outdoor production" means growing marijuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.

P

"Processor" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.

"Provisioning center" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marijuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marijuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

R

"Registered Primary Caregiver" means a primary caregiver who has been issued a current registry identification card under the MMMA.

"Registered Qualifying Patient" means a qualifying patient who has been issued a current registry identification card under the MMMA.

“Registry Identification Card” means that term as defined in Section 3 of the MMMA.
S

“Safety compliance facility” means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

“Secure transporter” means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

“State Operating License” means a license that is issued under Act 281 that allows the licensee to operate as one of the following, specified in the license: a grower, processor, securer transporter, provisioning center or safety compliance facility.

“Statewide Monitoring System” means the Internet-based, statewide database established and maintained by the State Department of Licensing and Regulatory Affairs under the Michigan Marijuana Tracking Act, Act 282 of the Public Acts of Michigan of 2016, as amended, for the purpose of enabling authorized parties and agencies to confirm or verify relevant information with respect to medical marijuana uses authorized by Act 281.

U

“Usable Marijuana” means the dried leaves, flowers, plant resin or extract of the marijuana plant, but does not include the seeds, stalks and roots of the plant.

DELETE ALL OF THE BELOW ITEMS FROM ARTICLE 1.00

Article 1.00 Definitions, Sec. 1.03, M.

Medical Marijuana Dispensary: Any site, facility, location, use, cooperative, or business where more than one registered primary caregiver intends to or does distribute, exchange, process, deliver or give away marijuana for medical purposes to qualifying patients.

Medical Marijuana Compassion Club: A facility that is typically operated with the intent of dispensing advice about the use of marijuana for medical purposes. Compassion Clubs vary in size, organizational structure, and the services they provide. Services may include, but are not necessarily limited to: provision of information about baked goods and other edibles containing marijuana, tinctures, oils, concentrates, capsules, smoking, and sprays.

Medical Marijuana Cooperative: An organization owned and/or operated by a group of individuals for its mutual benefit (such as the distribution, exchange, processing, delivery, or cultivation of marijuana).

Medical Marijuana Grow Facility: Any site, facility, or location where more than one primary caregiver grows marijuana for medical purposes.

Medical Use of Marijuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with debilitating medical condition.

DELETE ALL OF THE BELOW ITEMS FROM ARTICLE 2.00

Article 2.00 General Provisions:

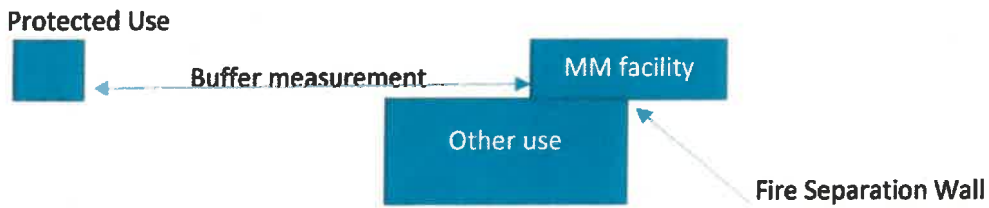
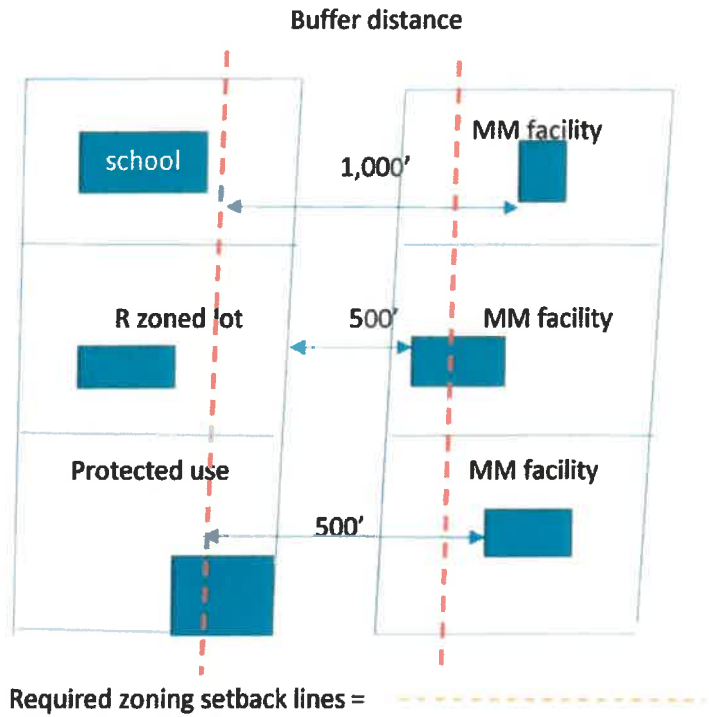
B. Prohibited Uses

Uses and structures that are not expressly permitted in this ordinance are prohibited. The following uses, as defined in Section 1.03, shall not be allowed anywhere in the Township:

1. Medical marijuana dispensaries.
2. Medical marijuana cooperatives.
3. Medical marijuana grow facilities.
4. Medical marijuana compassion clubs.

ADD THE FOLLOWING: DIAGRAM B-1 TO THE ORDINANCE

DIAGRAM B-1 "METHODS FOR MEASURING BUFFER DISTANCES FOR MEDICAL MARIJUANA FACILITIES"



SECTION II
SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing marihuana facilities pursuant to PA 281 of 2016, as may be amended.

SECTION III
REPEAL

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION IV
EFFECTIVE DATE

This ordinance shall take effect on the 8th day after publication, after adoption.

Mark Miller, Clerk
Charter Township of Kalamazoo
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Kalamazoo, MI 49004
269-381-8080
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