

## KALKASKA CODE-LAND USAGE

### § 152.44 ACCESSORY BUILDINGS, STRUCTURES AND USES

(A) *Accessory to Principal Building, Structure, or Use* – Accessory buildings, structures, and uses are permitted only in connection with, incidental to, and on the same lot with a principal building, structure or use. No accessory building, structure, or use may be placed on a lot without a permitted principal building, structure or use.

(B) *Zone District Requirement* – An accessory building, structure, or use must be in the same zoning district of the associated principal building, structure, or use.

(C) *When Attached to a Principal Building or Structure* – Unless specifically provided for, accessory buildings or structures structurally attached to a principal building or structure shall be subject to all the regulations of this Ordinance applicable to principal buildings, structures, and users.

(D) *Use Requirement and Construction Standards, Including Temporary Accessory Buildings and Underground Storage Tanks* – No accessory building, structure, or use shall be utilized unless the principal structure to which it is accessory is occupied or utilized. Accessory buildings shall be stick-built or of equivalent new building construction, and side walls no greater than 10'. Any side walls greater than 10' requires a zoning variance. No mobile home, tank, junk object, salvage materials, trailer, vehicle, or similar item shall be utilized as an accessory building or storage structure; provided, however, the above requirements shall not be applicable to:

(1.) Bonafide agriculture storage buildings or activities.

(2.) Tool sheds or similar temporary storage structures used pursuant to the construction of a building, so long as the period of construction does not exceed two (2) years. All such structures shall be removed prior to issuance of a Certificate of Occupancy.

(3.) Underground storage tanks accessory to a permitted use. Said tanks, including the operation of same, shall meet all State and Federal permitting and monitoring requirements.

*(Section 152.44, A-D, adopted January 8, 2001)*

### § 152.45 Medical Marihuana

A. Definitions. The following words and phrases shall have the following meaning:

a. Medical Marihuana Facility

A Facility authorized and defined pursuant to Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, which is a:

i. Grower

ii. Processor

iii. Secure Transporter

iv. Provisioning Center

v. Safety Compliance Facility

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- b. All definitions contained in the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, are incorporated here.
  - c. Residential Cultivation is the cultivation of medical marihuana by a patient or caregiver as defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.
- B. Grower. A Grower is allowed in the Industrial (I) zoning district if it complies with all of the following:
- a. It has a valid license from both the Village of Kalkaska and the State of Michigan.
  - b. Any artificial lighting must be shielded to prevent glare and light trespass and must not be visible from neighboring properties, adjacent streets or public right of ways.
  - c. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical, electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18). Further, there must be no harmful and/or interfering electromagnetic emissions to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Village.
  - d. All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- C. Processor. A Processor is allowed in the Medical (MD), Commercial (C), and Industrial (I) zoning districts if it complies with the following:
- a. It has a valid license from both the Village of Kalkaska and the State of Michigan.
  - b. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical, electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18). Further, there must be no harmful and/or interfering electromagnetic emissions to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Village.
  - c. All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- D. Secure Transporter. A Secure Transporter is allowed in the Medical (MD), Commercial (C), and Industrial (I) zoning districts if it complies with the following:
- a. It has a valid license from both the Village of Kalkaska and the State of Michigan.
  - b. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical,

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electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18). Further, there must be no harmful and/or interfering electromagnetic emissions to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Village.

- c. All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- E. Provisioning Center. A Provisioning Center is allowed in the Medical (MD), Commercial (C) and Industrial (I) zoning districts if it complies with the following:
- a. It has a valid license from both the Village of Kalkaska and the State of Michigan.
  - b. A Provisioning Center shall not be located within 500 feet of a pre-existing licensed daycare facility, pre-school, elementary school, middle school, or high school which is also located within the Village Limits, unless separated by a public roadway of 3 lanes or more. Measurements for purposes of this section shall be made between the closest property lines.
  - c. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical, electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18). Further, there must be no harmful and/or interfering electromagnetic emissions to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Village.
  - d. All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
  - e. No more than five (5) Provisioning Centers shall be allowed in the Village of Kalkaska at any given time.
- F. Safety Compliance Facility. A Safety Compliance Facility is allowed in the Medical (MD), Commercial (C), and Industrial (I) zoning districts if it complies with the following:
- a. It has a valid license from both the Village of Kalkaska and the State of Michigan.
  - b. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical, electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18). Further, there must be no harmful and/or interfering electromagnetic emissions to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Village.

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- c. All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- G. Residential Cultivation is allowed in any zoning district where residential uses are allowed or exist if it complies with the following:
- a. It has a valid license from both the Village of Kalkaska and the patient or caregiver has proper state registry identification card.
  - b. Any artificial lighting must be shielded to prevent glare and light trespass and must not be visible from neighboring properties, adjacent streets or public right of ways.
  - c. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical, electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18) . Further, there must be no harmful and/or interfering electromagnetic emissions to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Village.
  - d. All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways. (Amended Ord. Adopted 6/12/17)

# KALKASKA CODE-BUSINESS REGULATIONS

## CHAPTER 120 MEDICAL MARIHUANA

### Section

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## KALKASKA CODE-BUSINESS REGULATIONS

### **THE VILLAGE OF KALKASKA ORDAINS:**

That Title XI, Business Regulations, Chapter 120, Medical Marihuana, of the Kalkaska Code of Ordinances, be amended to read in its entirety as follows:

#### **§ 120.01 Title**

This ordinance shall be known and cited as the Village of Kalkaska Medical Marihuana Ordinance.

#### **§120.02 Purpose**

The purpose of this ordinance is to regulate and license the conduct of activity pursuant to the Michigan Medical Marihuana Act, Public Act 1 of 2008 as amended, the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, and the Marihuana Tracking Act, Public Act 282 of 2016 (the Acts) in order to:

- A) Protect the health, safety, and welfare of the general public:
- B) Establish a set of rules and regulations which are fair and equitable for those interested in establishing medical marihuana related activities or Medical Marihuana Facilities in compliance with the Acts:
- C) Provide reasonable regulation pursuant to the Village's general police power granted to villages by the Michigan Constitution of 1963 and the General Law Village Act, MCL 61.1 *et seq.*

The Village does not intend that registration and regulation under this ordinance be constructed as a finding that such businesses and activities are legal under federal law. Although some specific uses of marihuana are purported to be exempt from prosecution by the Acts, marihuana continues to be classified as a Schedule 1 controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute or dispense marihuana, or to possess it with intent to manufacture, distribute or dispense. By requiring registration and compliance with requirements as provided in this ordinance, the Village intends to protect, to the extent possible, the public health, safety and welfare of the residents of and visitors to the Village, including but not limited to registered Qualifying Patients, from harm that may result from the activities of persons who unilaterally or on the advice of their own attorney determine that they may legally operate a business involved in the possession, use, manufacture, distribution or dispensing or medical marihuana.

Nothing in this ordinance is intended to grant, nor shall it be construed as granting, immunity from criminal prosecution, for use, manufacture, distribution or dispensing of marihuana not in strict compliance with the Acts.

This ordinance permits authorization for certain activities based on the Acts. Nothing in this ordinance shall be construed as allowing persons to engage in conduct that endangers others or causes a public

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nuisance, or to allow use, cultivation, growth, possession, or control of marihuana not in strict accordance with the express authorization of the Act and this ordinance; and, nothing in this ordinance shall be construed to undermine or provide immunity from federal law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marihuana. Thus, the authorization of activity, and the approval of a license under this ordinance shall not have the effect of superseding or nullifying federal law applicable to the cultivation, use, and possession of marihuana, and all applicants and grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

### **§120.03 Legal Basis**

This ordinance is enacted pursuant to the statutory authority granted by MCL 67.1 and 67.2, authorizing the Village Council to adopt licensing ordinances and regulations to secure the public health, safety and general welfare.

### **§120.04 Definitions**

For purposes of this ordinance, terms and words defined by the Acts shall have the same meaning as provided in the Michigan Medical Marihuana Act.

Additionally, certain terms and words used herein shall have the following meaning:

- A) **Act** means the Michigan Medical Marihuana Act, Public Act 1 of 2008 as amended, the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, and the Marihuana Tracking Act, Public Act 282 of 2016, and all related Michigan Administrative Rules, as amended.
- B) **Applicant** means a person who applies for a license under this ordinance and includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.
- C) **Distribute or Distribution** means the physical transfer of any amount of marihuana in any form by one person to any other person or persons, whether or not any consideration is paid or received.
- D) **Dwelling** shall have the same meaning as defined in the Village Zoning Ordinance.
- E) **Premises** shall have the same meaning as defined in the Village Zoning Ordinance.
- F) **Licensee** means a person holding a license from the Villager under this ordinance and also holding a state operating license.
- G) **Lot** shall have the same meaning as defined in the Village Zoning Ordinance.
- H) **Medical Marihuana** means marihuana grown, used, or transferred for “medical use” as defined by the Acts.
- I) **Medical Marihuana Grower** means a licensee that is a commercial entity located in the Village that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- J) **Medical Marihuana Provisioning Center** means a licensee that is a commercial entity located in the Village that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients’ registered primary

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caregivers. Provisioning center includes any commercial property where marihuana 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 through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this ordinance.

- K) **Medical Marihuana Facility** means a location at which a license holder is licensed to operate under this ordinance.
- L) **Medical Marihuana 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 marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
- M) **Medical Marihuana Residential Cultivation** means *Medical Marihuana Cultivation* undertaken by a Primary Caregiver, or a Qualifying Patient that has not specified a Primary Caregiver to cultivate marihuana for qualifying patient, at Primary Caregiver's or Qualifying Patient's primary place of residence.
- N) **Medical Marihuana 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.
- O) **Medical Marihuana 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.
- P) **Person** means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- Q) **Primary Caregiver** means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs of a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.96a
- R) **Principal Residence** means the place where a person resides more than half of the calendar year.
- S) **Qualifying Patient or Qualified Patient** means a person who has been diagnosed by a physician as having a debilitating medical condition.
- T) **Residential Cultivation** means the cultivation of medical marihuana by a patient or caregiver as defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

### **§120.05 Regulations for Qualifying Patients**

The Residential Cultivation of marihuana by a Qualifying Patient in that qualifying patient's primary dwelling or an accessory building is allowed and shall be subject to any applicable regulations imposed on Primary Caregiver Facilities, as well as State Law, and also the following regulations:



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- 1) The qualifying patient must possess and maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the Act
- 2) All marihuana plants or products must be contained within the dwelling or accessory building in an enclosed, locked facility that restricts and prevents access by any persons other than the qualifying patient.
- 3) All lighting, and associated equipment, such as but not limited to grow lamps, grow lights, ballasts, switches, controllers, and any other electrical or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 4) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 5) Any artificial lighting must be shielded to prevent glare and light trespass must not be visible from neighboring properties, adjacent streets or public right of ways.
- 6) Only the qualifying patient may use the marihuana cultivated in his/her principal residence.
- 7) There shall not be more than twelve (12) marihuana plants cultivated at any one time.
- 8) All activities shall be conducted so as not to be visible in any way from neighboring properties, adjacent streets or public right of ways.

### **§120.06 Regulations for Primary Caregiver**

A Primary Caregiver Residential Cultivation shall comply with all of the following regulations:

- 1) The Primary Caregiver Location shall be operated by a Primary Caregiver who has been issued and maintains a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the Acts.
- 2) All marihuana plants or products must be contained in an enclosed, locked facility that restricts and prevents access by any persons other than the Primary Caregiver or Qualifying Patient and meets all state requirements.
- 3) At a Primary Caregiver Location at which a caregiver or any other person permitted under the Act cultivates marihuana for use by patients, there shall not be more than twelve (12) marihuana plants being cultivated at any one time per patient, and in no event more than seventy-two (72) marihuana plants being cultivated at any one time (which assumes cultivation for five (5) patients, plus and additional twelve (12) plants if the caregiver is also a patient that has not designated a caregiver to assist in providing medical marihuana).
- 4) Any artificial lighting must be shielded to prevent glare and light trespass and must not be visible from neighboring properties, adjacent streets or public right of ways.

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- 5) All lighting, and associated equipment, such as but not limited to grow lamps, grow lights, ballasts, switches, controllers, and any other electrical or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to FCC Part 15 and FCC Part 18. Further, there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 6) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 7) No more than one (1) Primary Caregiver shall be permitted to distribute or to provide Primary Caregiver services to Qualifying Patients within a single Primary Caregiver Location.
- 8) Qualifying Patient visits to a Primary Caregiver Location shall be restricted to between the hours of 9:00 a.m. and 6:00 p.m.
- 9) No Qualifying Patients under the age of 18 (eighteen) shall be permitted at any time at a Primary Caregiver Location, except in the presence of his/her parent or guardian.
- 10) A Primary Caregiver shall display within a Primary Caregiver Location, indoors, and in a manner legible and visible only to his/her Qualifying Patients:
  - a) A notice that Qualifying Patients under the age of eighteen (18) are not allowed at the Primary Caregiver Facility, except in the presence of his/her parent or guardian, and
  - b) A notice that no consumption of marihuana shall occur at the Primary Caregiver Facility.
- 11) No signs shall be allowed at a Primary Caregiver Location.
- 12) The Primary Caregiver Location, including any room or area utilized to grow marihuana for medical use, shall contain electrical service and wiring, certified by an electrician licensed in the State of Michigan, and shall meet all the applicable requirements of the electrical code in effect.
- 13) The enclosed, locked facility shall also meet all state requirements.
- 14) A caregiver and any other person authorized under the Acts to assist patients shall distribute medical marihuana only on a confidential, one-to-one, basis with no other caregiver being present at the same Location at the same time, and no other patient or other persons being present at the same Location at the same time, provided, that a patient’s immediate family members or guardian may be present within the patient’s private residence, and one family member or guardian may be present in any Location other than the patient’s private residence.

### **§120.07 Regulations for Medical Marihuana Grower**

Medical Marihuana Grower shall comply at all times with the following:

- 1) A Medical Marihuana Grower shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Grower shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.

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- 3) No Distribution of Medical Marihuana to any Primary Caregiver or Qualifying Patient may take place at a Medical Marihuana Grower.
- 4) A Medical Marihuana Grower's may grow no more marihuana plants than allowed pursuant to its license from the State Medical Marihuana Licensing Board for one of the following classes:
  - a. Class A – 500 marihuana plants
  - b. Class B – 1,000 marihuana plants
  - c. Class C -- 1,500 marihuana plants
- 5) A Medical Marihuana Grower may only sell marihuana seeds or marihuana plants to a grower by means of a secure transporter pursuant to the Acts.
- 6) A Medical Marihuana Grower may sell marihuana, other than seeds to a processor or provisioning center by means of a secure transporter pursuant to the Acts.
- 7) Until December 31, 2021, a Medical Marihuana Grower must have, or have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.
- 8) A Grower may not be a registered primary caregiver and may not employ a registered primary caregiver.
- 9) A Medical Marihuana Grower may only operate in an area zoned for industrial uses.
- 10) All marihuana plants or products must be contained within the Medical Marihuana Grower in an enclosed, locked facility that restricts and prevents access by any persons other than those allowed and meets all state requirements.
- 11) Any artificial lighting must be shielded to prevent glare and light trespass and must not be visible from neighboring properties, adjacent streets or public right of ways.
- 12) All lighting, and associated equipment, such as but not limited to grow lamps, grow lights, ballasts, switches, controllers, and any other electrical or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to FCC Part 15 and FCC Part 18. Further, there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 13) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sound, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.

### **§120.08 Regulations for Medical Marihuana Provisioning Center**

A Medical Marihuana Provisioning Center shall comply at all times with the following:

- 1) A Medical Marihuana Provisioning Center shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Provisioning Center shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.

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- 3) A Provisioning Center may only purchase or transfer medical marihuana from a grower or processor and may only sell or transfer medical marihuana to a qualifying patient or registered primary caregiver.
- 4) A Provisioning Center may transfer medical marihuana to or from a safety compliance facility for testing.
- 5) All transfers to or from a separate marihuana facility must be by means of a secure transporter.
- 6) A Provisioning Center may only sell or transfer medical marihuana to a qualifying patient or primary caregiver after the medical marihuana has been tested and bears the label required for retail sale.
- 7) No use of medical marihuana shall be allowed at a Provisioning Center.
- 8) A Provisioning Center shall not allow a physician to conduct a medical examination or issue a medical certification document on its premises for the purpose of obtaining a registry identification card.
- 9) All electrical, electromechanical, and/or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 10) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 11) Any artificial lighting must be shielded to prevent glare and light trespass must not be visible from neighboring properties, adjacent streets or public right of ways.

### **§120.09 Regulations for Medical Marihuana Processor**

A Medical Marihuana Processor shall comply at all times with the following:

- 1) A Medical Marihuana Processor shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Processor shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.
- 3) A Processor may only purchase marihuana from a grower and may only sell marihuana-infused products or marihuana to a Provisioning Center.
- 4) A Processor may only transfer medical marihuana by means of a secure transporter.
- 5) Until December 31, 2021, a Processor must have, or have as an active employee an individual who has, a minimum of 2 years’ experience as a registered primary caregiver.

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- 6) A Processor may not be a registered primary caregiver and may not employ a registered primary caregiver.
- 7) All electrical, electromechanical, and/or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 8) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 9) Any artificial lighting must be shielded to prevent glare and light trespass must not be visible from neighboring properties, adjacent streets or public right of ways.

### **§120.10 Regulations for Medical Marihuana Secure Transporter**

A Medical Marihuana Secure Transporter shall comply at all times with the following:

- 1) A Medical Marihuana Secure Transporter shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Secure Transporter shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.
- 3) A Secure Transporter may store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money.
- 4) A Secure Transporter may not transport to a registered qualifying patient or to a registered primary caregiver.
- 5) No Secure Transporter or investor therein may have an interest in a Grower, Processor, Provisioning Center or Safety Compliance Facility.
- 6) No Secure Transporter or investor therein may be a registered qualifying patient or a registered primary caregiver.
- 7) A Secure Transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the act.
- 8) All electrical, electromechanical, and/or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to FCC Part 15 and FCC Part 18. Further there

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must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.

- 9) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.

### **§120.11 Regulations for Medical Marihuana Safety Compliance Facility**

- 1) A Medical Marihuana Safety Compliance Facility shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Safety Compliance Facility shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.
- 3) A Safety Compliance Facility may receive marihuana from, test marihuana for, and return marihuana to only a medical marihuana facility or a Registered Caregiver.
- 4) A Safety Compliance Facility must be accredited or have a variance pursuant to the Acts.
- 5) No Safety Compliance Facility owner or investor may have an interest in a Grower, Secure Transporter, Processor, or Provisioning Center.
- 6) A Safety Compliance Facility must have a secured laboratory space that cannot be accessed by the general public.
- 7) All electrical, electromechanical, and/or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 8) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.

### **§120.12 Certificate of Registration Required**

No Medical Marihuana Facility, or previously licensed medical marihuana use, whether proposed, or existing at time of enactment of this ordinance, shall be permitted within the Village at a location unless such location shall have obtained a current Certificate of Registration under this ordinance which shall constitute a license pursuant to the Kalkaska Code. Certificate of Registration is required for and shall be subject for the following:

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- 1) The exact location of a Facility used for the Medical Marihuana including the space within a building so used shall be clearly identified on the Certificate;
- 2) By way of exception, it is not the intent of this ordinance to require a Certificate of Registration for the principal residence of a Qualified Patient where marihuana is cultivated or used exclusively for such patient's personal consumption however, a location other than a patient's principal residence where a patient cultivates marihuana shall be subject to the Certificate of Registration requirements of this ordinance.
- 3) The registration requirement in this ordinance applies to all Medical Marihuana Facilities that are proposed or existing on the effective date of this ordinance.
- 4) The registration requirement set forth in this ordinance shall be in addition to, and not in lieu of, any other licensing and permitting requirement imposed by any other state or local law.
- 5) A Certificate of Registration issued under this ordinance shall be valid for the calendar year in which it is issued, unless revoked for violation(s), in which case it is considered to be null and void.
- 6) No Certificate of Registration issued under this ordinance may be transferred or assigned, and no Certificate of Registration is valid for any location other than the location specified in the Certificate of Registration.

### **§120.13 Application for Certificate of Registration**

The requirement of this ordinance is to license a person and a specific location. Any change in ownership in any manner and any change in location requires a new license. An application for a Certificate of Registration under this section shall be submitted to the Director of Public Safety as the Medical Marihuana Officer of the Village of Kalkaska and shall conform to the following specifications. On the application, an applicant shall:

- 1) Include the address and legal description of the precise premises (other than a patient's principal residence) at which there shall be a Medical Marihuana Facility. The fact that a caregiver or other person providing assistance to patients also has an ID Card as a patient shall not relieve the obligation to provide this information.
- 2) Specify the name and address of the place where all unused portions of marihuana plants cultivate in connection with the use of marihuana or caregiver activity shall be disposed.
- 3) Describe the enclosed, locked facility, which must be contained within or permanently affixed to real property, in which any and all cultivation of marihuana is proposed to occur, or where marihuana is stored, with such description including: location in building; measurements, in feet, of the floor dimensions and height; a general description of the security measures in place, and a narrative providing an overview of access control for the facility. *No specific information such as lock or access codes or combinations is to be provided on the application.*
- 4) If a Provisioning Center, describe all locations in the premises where the sale or transfer to a qualified patient or caregiver shall take place, and include a floorplan.

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- 5) If a Grower, specify the Class under which the Grower seeks the license. For safety and other code inspection purposes, it shall describe and provide detailed specifications of all lights, equipment, and all other electrical, plumbing, and other means to be used to facilitate the cultivation of marihuana plants, to a degree of detail satisfactory to the Village of Kalkaska Medical Marihuana Officer.
- 6) Manufacturer documentation must be provided certifying that all lighting, and associated equipment, such as but not limited to grow lamps, grow lights, ballasts, switches, controllers, and any other electrical or electronic devices employed on the premises meets and fully complies with all applicable rules as required by the Federal Communications Commission (“FCC”), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 7) Include a statement attesting and consenting that all activities will be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 8) Include a statement attesting and consenting that all artificial lighting will be shielded to prevent glare and light trespass and must not and will not be visible, from neighboring properties, adjacent streets or public right of ways.
- 9) May not contain the name, home address, or date of birth of a patient.
- 10) The name and address of all owners of the real property where the Medical Marihuana Facility is located, including a statement by each owner attesting to their knowledge, understanding, and approval of such activity upon their property.
- 11) Name, address, and other contact information of all Applicants as defined above. A statement attesting whether an Applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled substance related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.
- 12) A zoning compliance verification that shows the structure for the proposed Medical Marihuana Facility meets the requirements of the applicable Village Zoning Code.
- 13) A building compliance verification or a certificate of occupancy that shows the structure for the proposed Medical Marihuana Facility meets the requirements of the applicable use group under the Michigan Building Code.
- 14) Payment of a non-refundable registration fee, which shall be determined by resolution of the Village Council. Fees for zoning compliance permits, building compliance verification, and certificates of occupancy shall be separate from the registration fee.



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### **§120.14 Standards for Certificate**

In addition to the regulations stated above, the requirements and standards for approval of a Certificate of Registration for the activity permitted are as follows:

- 1) Locations for any facility must comply with zoning.
- 2) A Medical Marihuana Grower's cultivation shall occur inside of an enclosed, locked facility within the confines of a building registered under this section, and such activities shall occur only in locations not visible to the public and adjoining uses, provided however, this subsection shall not prohibit a caregiver from assisting a patient at the patient's principal residence or at a hospital.
- 3) Documentation proving that electrical and plumbing inspectors (and/or other inspector(s) as required by various codes, and/or by the Medical Marihuana Officer) have inspected and confirmed that all electrical wiring, lighting, plumbing, and any other related equipment and/or means used to facilitate the growth or cultivation of marihuana plants, are in full and complete compliance with respective applicable code(s).
- 4) For proposed facilities, a site plan indication that all electrical and plumbing requirements are clearly shown. During and at completion of inspections of all electrical, plumbing and other related equipment are in full and complete compliance with respective applicable code(s). A Certification of Registration may be issued upon an administrative review of a site plan. Should the completed structure not pass all necessary inspections, the Certificate shall be null and void.
- 5) All use of property or land must be in accordance with an approved application, and, be in full compliance with all other Village ordinances.
- 6) An Applicant shall meet all requirements found in the Acts.
- 7) The Applicant has signed and sworn that the Applicant has not knowingly submitted an Application containing false information.
- 8) A Medical Marihuana operation that has a Certificate of Registration or seeks a Certificate of Registration on or after the effective date of this ordinance is subject to the previous ordinance until December 31, 2017. The previous ordinance shall remain in effect for these operations until December 31, 2017.
- 9) A satisfactory background investigation, experience in the specific medical marihuana facility activity, cooperation with law enforcement, community investment, proof of financial stability, and a good faith effort to recognize and address community sensibilities and sensitivities, all equally weighted, as evaluated by the Village of Kalkaska Medical Marihuana Officer and his designees.
- 10) Beginning January 1, 2018, all existing operations must be a state licensed Medical Marihuana Facility and must make application for and receive a Certificate of Registration to continue to operate pursuant to this Ordinance. The Certificate of Registration must be applied for and approved prior to January 1, 2018 for any Medical Marihuana Facility.

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- 11) A satisfactory background investigation.
- 12) Demonstration of experience in the specific medical marihuana facility activity.

### **§120.15 Inspection of Medical Marihuana Facility prior to Issuance of Certificate of Registration**

1. Additionally, contingent to licensing and registration of a medical marijuana facility, the community Medical Marihuana Officer may require and is permitted to coordinate electrical and plumbing inspectors, and any other inspectors deemed necessary, with regard to a site of such cultivation, or point of sale, for the purpose of determining whether all lights, plumbing, equipment, and any other means used to facilitate the Medical Marihuana Facility are in accordance with both this ordinance, and, any other applicable local, State, or Federal code.
2. This section is not meant to imply that the Village of Kalkaska Medical Marihuana Officer is responsible for determining all such inspections that are necessary, but that he may require additional inspections that he feels in his judgement are prudent and/or necessary.
3. In carrying out provisions of the subsection, community officials will not require the name or address of patients, but rather, the intent of this subsection is to focus on the premises to ensure public health and safety are accommodated.
4. A quarterly compliance review for each Certificate of Registration shall be conducted by the Medical Marihuana Officer and/or his designees. The fee shall be listed in the Village Schedule of Fees.

### **§120.16 Renewal or Amendment of Existing Certificate of Registration**

The same procedures for application for and issuance of a new Certificate of Registration shall apply to renewal, or amendment, of an existing Certificate of Registration, subject also to the following:

- 1) To renew an existing Certificate of Registration, the registrant shall submit an application with full supporting documentation, in the same manner and degree as is required to apply for a new Certificate of Registration, no later than forty-five (45) days before the expiration date.
- 2) An amended application shall be submitted when there is a change in any information the applicant was required to provide in the most recent application on file with the Village.
- 3) An application to change the location of an existing Certificate of Registration shall require a new application, with full supporting documentation, must meet all requirements, and shall be processed in the same manner as provided for the issuance of a new Certificate of Registration.
- 4) The Applicant has used the property or land in accordance with any prior approved application for that property.

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### **§120.17 Certificate of Registration Revocation**

- 1) A Certificate of Registration issued under this ordinance shall be revoked for any of the following violations:
  - a. Any person required to be named on the application for the Certificate of Registration is convicted of or found responsible for violation of any provision of this ordinance;
  - b. The application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the Village with any other false or misleading information;
  - c. Marihuana is transferred or otherwise Distributed on the premises in violation of this ordinance or any other applicable state or local law, rule or regulation;
  - d. The Facility is operated or is operating in violation of the specifications of the Certificate of Registration application, any additional applicable conditions or approvals required by the Village, or any other applicable state or local law, rule or regulation.
  - e. The Village, or the County or the department of any other governmental entity with jurisdiction, has closed the business temporarily or permanently or issues and sanction for failure to comply with health and safety provisions of this ordinance or otherwise applicable to the business or any other applicable state or local law.
  - f. The Facility is determined to have become a public nuisance.
  - g. Other reasons pursuant to Section 110.11 of Title XI of the Kalkaska Ordinances.
  
- 2) The procedure for revocation for the above violations shall be pursuant to Section 110.12 of Title XI of the Kalkaska Ordinances.

### **§120.18 Revocation Not Exclusive Penalty**

Nothing in this ordinance shall be deemed to prohibit the Village from imposing other penalties authorized by this code or other ordinance of the Village, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

### **§120.19 Civil Infraction**

Any person, firm, or corporation who violates any of the provisions of this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable

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by a civil fine for each violation in accordance with the schedule set forth herein, along with costs which may include all expenses, direct or indirect, which the Village incurs in connection with the municipal civil infraction. A violator of this ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this ordinance. The Village’s Medical Marihuana Officer or any police officer may issue appearance ticket citations for violations of this ordinance. The provisions of this ordinance may also be enforced by suit for injunctive relief.

**§120.20 Civil Fines for Municipal Infractions**

Civil fines for municipal civil infractions under this ordinance shall be assessed in accordance with the following schedule:

	Fine and Suspension
1 <sup>st</sup> violation within a 3-year period	\$ 500.00
2 <sup>nd</sup> violation within a 3-year period	\$1000.00
3 <sup>rd</sup> violation within a 3-year period	\$2000.00

The fines listed above supersede those reflected in Village Ordinance 35.02.

**§120.21 Severability**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.