

CHARTER TOWNSHIP OF MADISON

Ordinance 2017-____

An ordinance to amend the Madison Charter Township Zoning Ordinance, to provide for creating a Medical Marihuana Facilities Overlay District for use in the Light Industrial District (I-1) and the General Industrial District (I-2) for the purpose of permitting medical marihuana facilities.

THE CHARTER TOWNSHIP OF MADISON ORDAINS:

Section 1. Amendment to Section 2.2 Definitions

Section 2.2, Definitions, of the Madison Charter Township Zoning Ordinance, being Ordinance 1, is hereby amended to add the following definitions:

2.2.36-1. Medical Marijuana Facilities Definitions

- a. "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center. A grower can sell seeds or plants to another grower in addition to processors and provisioning centers. One grower may produce clones for others.
- b. "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- c. "Marihuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; 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.
- d. "Marihuana facility" or "Medical Marihuana 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 marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana 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.* A marihuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.

- e. "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.
- f. "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 marihuana to registered qualifying patients, directly or through the patients' registered primary 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 in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, is not a provisioning center for purposes of this article.
- g. "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.
- h. "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. Zoning Districts

Section 2. Amendment to Article 4, Zoning District Regulations, to add Section 4.9A, Medical Marihuana Facilities Overlay District

Article 4, Zoning District Regulations, is amended by adding the following Section 4.9A, Medical Marihuana Facilities Overlay District:

Section 4.9A Medical Marihuana Facilities Overlay District (MMFO)

The State of Michigan has adopted the Medical Marihuana Facilities Act, MCL 333.27101 *et seq.* to permit five different types of medical marihuana facilities. The Medical Marihuana Facilities Overlay District (MMFO) is established as a Special District to permit the establishment of such facilities in the Township.

4.9A.1 Intent

The MMFO Overlay District is intended to overlay certain designated and/or named properties in the Light Industrial District (I-1) and the General Industrial District (I-2).

4.9A.2 Lands to be Designated.

All parcels and portions of parcels located within the boundaries of the MMFO District, as shown on the Official Zoning Map.

4.9A.3 Permitted Uses.

Only the following types of medical marihuana facilities, as authorized by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* and the Charter Township of Madison Regulation of Medical Marihuana Facilities Ordinance, are permitted uses in the MMO District:

- a. Growers.
- b. Processors.
- c. Provisioning centers.
- d. Secure transporters.
- e. Safety compliance facilities.

All of the above uses are subject to the development standards set forth provisions of Article V, Section 5.23.

Section 3. Amendment to Article V, Section 5.6.1. Article V, Section 5.6.1. is amended to add 5.6.1.h. requiring site plan review for medical marihuana facilities:

- h. Medical marihuana facilities.

Section 4. Amendment to Article V to add Section 5.23. Article V, is amended to add Section 5.23 which sets forth development standards for medical marihuana facilities:

5.23. MARIHUANA FACILITIES.

The following development standards are applicable to medical marihuana facilities and all site plans shall be reviewed for compliance with these standards. If there are any conflicts between the standards set forth in this Section 5.23 and the other provisions of the zoning ordinance, the standards in this Section shall apply.

5.23.01. *All Medical Marihuana Facilities.* Growers, processors, provisioning centers, secure transporters, and safety compliance facilities are subject to the following standards and requirements:

- a. *Uses Not Permitted by State Prohibited.* 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 conditional use permits pending the resolution of the legal issue in question.
- b. *State Licensing Required.* The marihuana 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. *Township Permit Required.* A medical marihuana facility must have a permit issued by Township pursuant to the Township's Medical Marihuana Facilities Ordinance and then must be at all times in compliance with Township Medical Marihuana Facilities Ordinance.
- d. *Compliance with Law.* Except as otherwise modified by this Section, all medical marihuana facilities must, comply with all other applicable laws and ordinances of the Township, including, but not limited to, all area, yard, height and bulk

regulations set forth in Section 4.11 of the Township Zoning Ordinance.

- e. *No Home. Occupation.* A marihuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, 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. *Minimum Lot Size.* The minimum lot size in the MMO District shall be one (1) acre, however, more than one medical marijuana facility may be located on a single lot.
- g. *No Outdoor Activities or Storage.* All activities and all materials used in connection with medical marihuana facilities, with the exception of the loading and unloading of materials, must be contained within an enclosed and secure building or structure.
- h. *Signage.* Signage requirements for marihuana facilities, unless otherwise specified, are as provided in Section 5.2 of the Township Zoning Ordinance.
- i. *Buffer Zones.*
 - 1. A medical marihuana facility may not be located within two hundred fifty (250) feet of real property comprising or used by a public or private elementary, vocational, or secondary school; a public or private college, junior college, or university; a licensed child care center or preschool; a public playground, public swimming pool, or public or private youth activity facility; a public park, public outdoor recreation area, or public recreation facility; a public library; a religious institution or residentially zoned property.
 - 2. The distance shall be measured as the shortest straight-line distance between the property line of the location uses described

in the preceding Section 5.5.5.b.28(9)(a) to any building or structure in which marihuana is stored, grown or located.

- j. *Security Fencing.* With the exception of provisioning centers, all other medical marihuana facilities must erect minimum eight feet (8') high security fencing, topped with barbed wire or razor wire, around all portions of facility where marihuana is grown, stored or processed. The security fencing shall be not be located within the required buffer zone and shall be behind the required screening.
- k. *Screening.* All medical marihuana facilities shall be screened from adjacent lots and road rights-of-way as follows:
 - 1. Required landscaping and screening elements shall be provided by one (1) or more of following methods as best suited to the existing conditions, subject to Planning Commission approval during the site plan approval process:
 - A. *Greenbelt buffer.* The purpose of this method is to establish a buffer between adjacent land uses, or between uses and adjacent road rights-of-way. This method is intended to provide a partial visual screen, particularly where the adjacent uses (including uses that are adjacent across a road right-of-way) are less intense than the use of the subject site. Greenbelt buffers shall consist of the following (see illustration):
 - i. Greenbelts shall have a minimum width of ten (10) feet, and may be interrupted only to provide for pedestrian or vehicular access.
 - ii. Greenbelts shall be sodded, hydro-seeded, or planted with appropriate groundcovers.

- iii. A mixture of deciduous shade trees, ornamental trees, evergreen trees, and shrubs shall be planted along the greenbelt buffer at a minimum concentration of one (1) tree and three (3) shrubs per 15 linear feet of greenbelt length. The Planning Commission may require additional plantings to achieve the screening objectives of this Section.
- iv. Such required plant materials may be placed at uniform intervals, at random or in groupings.
- v. The greenbelt length shall be measured along the centerline of the greenbelt for its entire length, inclusive of all driveways.

B. *Hedgerow.* This method is intended to create an effective obscuring screen within a limited land area. This method shall consist of shrubs planted and maintained as a continuous visual screen, subject to the following (see illustration):

- i. The maximum permitted spacing between individual plants shall not exceed three (3) feet on-center, unless a different separation distance is determined by the Planning Commission to be more appropriate for the type of shrub proposed.
- ii. Maintained plant height at maturity shall be adequate for the intended screening function.
- iii. Low height shrubs [two (2) to four (4) feet in height] shall be used to provide necessary ground-level

screening to block headlight glare or similar low-level impacts.

- iv. Larger shrubs [exceeding four (4) feet in height] shall be used to establish a landscaped barrier between land uses of differing intensities, or to provide more complete screening.

C. *Fence.* This method shall consist of an ornamental, rail or privacy fence constructed along the lot or zoning district boundary, or around the perimeter of the area to be screened, subject to the following:

- i. Required fences shall have a minimum height of three (3) feet and shall not exceed six (6) feet in height above grade unless a higher fence height is determined by the Planning Commission to be necessary to provide adequate screening.
- ii. The fence materials, height, location, and design shall be consistent with existing fences on adjacent lots, and shall be subject to Planning Commission approval.

The security fencing required in Section 5.23.01.j. may not be used for purposes of screening.

5. *Evergreen screen.* The purpose of this method is to create a dense obscuring screen that meets the objectives of this Section. This method is intended to establish a year-round screening barrier between land uses of differing intensities, to effectively block noise and light, or to completely separate developed and undeveloped portions of a site.

This method shall consist of closely spaced evergreen trees with year-round screening characteristics. Such trees shall be planted a maximum of 15 feet apart in at least two (2) staggered rows (see illustration).

6. *Masonry wall.* The purpose of this method is to create a solid, year-round barrier and obscuring screen to effectively block noise, light, and other impacts between land uses of differing intensities. Such walls shall be subject to the following (see illustration):

- i. Masonry walls shall have a minimum height of two (2) feet, and shall not exceed six (6) feet in height above grade unless a higher wall height is determined by the Planning Commission to be necessary to provide adequate screening.
- ii. Walls shall be solid in character, and capped with a stone or concrete cap.
- iii. Wall materials shall be coordinated with the principal building materials on the site. The Planning Commission may require that decorative masonry (brick, stone, or decorative block) materials be incorporated into the wall design and construction.

5.23.02 *Growers.* Growers shall be subject to the following additional standards:

- a. *Minimum Yard Depth/Distance from Lot Lines.* The minimum front, rear, and side yard setbacks for any structure used for marihuana production shall be 50 feet.
- b. *Indoor Production and Processing.* Marihuana production shall be located entirely within one or

more completely enclosed buildings. No outdoor production or processing is permitted.

5.23.03 *Processors*. Processors shall be subject to the following additional standards:

- a. *Minimum Yard Depth/Distance from Lot Lines*. The minimum front, rear, and side yard setbacks for any structure used for marihuana production shall be 50 feet.
- b. *Processing*. Marihuana processing shall be located entirely within one or more completely enclosed buildings. No outdoor processing is permitted.

5.23.04 *Provisioning Centers*. Provisioning centers shall be subject to the following additional standards:

- a. *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.

5.23.05 *Safety Compliance Facility*. Safety compliance facilities shall be subject to the following additional standards:

- a. A marihuana safety compliance facility shall be subject to the special regulations and standards applicable to medical laboratories and medical testing facilities in the ordinance.
- b. All activities of a marihuana safety compliance facility, including all transfers of marihuana, shall be conducted within the structure and out of public view.

5.23.06 *Secure Transports*. Secure transporters shall be subject to the following additional standards:

- a. The regulations and standards applicable to transportation and warehousing uses in the Zoning Ordinance.

- b. Any buildings or structures used for the containment of stored materials shall be located no closer than fifty (50) feet from any property line.

Section 5. Amendment to Section 5.7.

Section 5.7, Nonconformities is amended by adding the following provisions:

5.7.6. Nonconformities Regarding Medical Marihuana Facilities.

- a. No marihuana facility operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use nor shall the operation of such marihuana facility be deemed a legal nonconforming use under this Zoning Ordinance.
- b. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Zoning Ordinance or any amendment thereto.
- c. Discontinuation of a state medical marihuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.

Section 6. Severability.

Should any section, subdivision, sentence, clause or phrase of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 7. Publication and Effective Date.

Publication of this ordinance shall be made by causing a true copy thereof to be inserted once in a newspaper circulating within the Charter Township of Madison, which insertion shall be made within thirty (30) days after its passage. This ordinance shall take effect immediately upon its publication.

YEAS: Griewahn, Etter, Gregg, Liedel, Bales, Benschoter
NAYS: Carpenter
ABSENT: None

Ordinance declared adopted on December 29, 2017.

Gary Griewahn
Township Supervisor for the

Charter Township of Madison

CERTIFICATION OF ADOPTION AND PUBLICATION

I, Terry Etter, the duly elected Township Clerk, certify that the foregoing ordinance was properly enacted by the township board of the Charter Township of Madison, Lenawee County, Michigan on December 29, 2017 and that it was published in the Adrian Daily Telegram on _____, 2018.

Terry Etter
Township Clerk for the
Charter Township of Madison