

Draft Marihuana Zoning Ordinance Amendments

Articles 3, 6, 8, 9, 11, 25, and 37 4/22/21 Kim

Color Code: **Notes or needs review** **Previously Reviewed Material**

Article 3: Definitions

Marihuana Related Definitions:

Shall include all of the definitions contained in the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, and Michigan Regulation & Taxation of Marihuana Act (MRTMA) and Michigan Department of Licensing and Regulatory Affairs (LARA) Rules and Regulations.

Licensed Marihuana Facility: A facility authorized and defined pursuant to the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, Michigan Regulation and Taxation of Marihuana Act which shall include the following:

- a. Residential Cultivation
- b. Grower
- c. Processor
- d. Secure Transporter
- e. Provisioning Center
- f. Safety Compliance Facility
- g. Excess Marihuana Grower

Residential Cultivation is the cultivation of medical marihuana by a **Qualifying Patient** or **Primary Caregiver** as defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008. **See Article 37.60.**

Primary Caregiver means a person who has agreed to assist a patient with the medical use of marihuana and has a valid state license to do so. **See Article 37.60.**

Qualifying Patient is a person who had been diagnosed by a physician as having a debilitating medical condition being treated by marihuana. **See Article 37.60**

Medical Secure Transport is a commercial entity licensed to store and/or transport marihuana between facilities.

Processor is a commercial entity licensed to purchase marihuana from a grower and extract resin, package, create marijuana-infused products, or similarly prepare marihuana substances for sale.

Grower is a commercial entity licensed to cultivate, dry, trim, or cure and package marihuana for sale to a processor or provisioning center.

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District Amendments

Residential District R1

6.10 Permitted Uses

O. **Residential Cultivation** establishments subject to the standard of Article 37.60.

(Renumber balance of section)

Commercial District

8.11 Uses Permitted by Special Use Permit

8.11.Q Medical Marihuana Grower and Processor Facilities subject to the standards of Articles 37.60 and 25.25

8.11.P. Recreational Processor and Grower Facilities subject to the standards of Articles 37.60 and 25.25

(Renumber balance of section)

Industrial

9.11 Uses Permitted by Special Use Permit

9.11.E Medical Marihuana Grower and Processor Facilities subject to the standards of Articles 37.60 and 25.25

9.11.F Recreational Processor and Grower Facilities subject to the standards of Articles 37.60 and 25.25

(Renumber balance of section)

Agricultural

10.11 Uses Permitted by Special Use Permit

10.11.C Medical Marihuana Grower and Processor Facilities subject to the standards of Articles 37.60 and 25.25

10.11.D Recreational Processor and Grower Facilities subject to the standards of Articles 37.60 and 25.25

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(Renumber balance of section)

25.22 E S.U.P. Standards governing location and operation.

25.22.E Marihuana Grow and Process Establishments – Any SUP application in the Commercial ©, Industrial (N), or Agricultural (Ag) district and shall comply with the following standards and shall include the following information in addition to the existing requirement for site plan and SUP. **All Residential Cultivation shall be governed by the standards in Article 37.60.**

1. A waste disposal plan shall be included with all applications detailing plans for solid and liquid, chemical, plant, and byproduct disposal or processing which does not include on site incineration.
2. A security plan including the following:
 - a. A plan detailing the establishments plans for 24-hour security monitoring.
 - b. A plan which ensures that all marihuana plants or products are contained in an enclosed, locked facility that restricts and prevents access by any unauthorized person and meets all state requirements.
3. Proposed hours of operation shall be specified in the application and are subject to Planning Commission approvals.
4. Lighting Plans detailing compliance with the following standards and those detailed in specified in Article 29, External Lighting Regulations:
 - a. A Security Lighting Plan which takes into consideration neighboring properties.
 - 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 Township.
5. Location of all Marihuana Establishments in the **Agricultural District (Ag)** shall be guided by the following additional standards:
 - a. Any establishment in the Ag District shall be held to the Exterior Lighting Regulations, Article 29.
 - b. Any establishment in the Ag District may be required to include a landscape buffer adhering to the **Industrial District Standards** as defined in Landscape Standards, Article 33.
 - c. Any establishment in the Ag District shall be held to **the Industrial standards** in Article 34, Off Street Parking and Loading.

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- d. All Marihuana establishment structures **and operations** shall maintain a **two hundred (200)** foot set back from the boundary line of any **residential property**, residential district, subdivision, or district in which the use is not permitted.
 - e. Exceptions to the setback requirements may be considered by the planning commission for proposed marihuana facilities operating from an existing structure previously used for a commercial application.
6. No Marihuana Establishment shall be located within five-hundred (500) feet of any licensed educational institution or school, college or university, church or house of worship or other religious facility, or public or private park, if such uses are in existence at the time the Establishment is issued an initial permit, with the minimum distance between uses measured horizontally between the closest edge of any such building or use on the property. **(Note: Township Board wording)**
 7. Any structure housing a Marihuana Establishments shall comply with the underlying zoning in that district.
 8. Any structure housing a Marihuana Establishments in any district shall maintain a total footprint of all buildings equal to or less than a 40% maximum coverage of the property.
 9. Signage shall not indicate the nature of the establishment as a marihuana establishment and shall require a use permit unless approved through special use permit process.
 10. No equipment or process shall be used which creates noise, dust, vibration, glare, fumes, odor or electrical interference detectable to the normal senses beyond the parcel boundary.

 11. **Marihuana Establishments shall be the only principal use located on the Permitted Property, except that the co-location of facilities and establishments is permitted, and the stacking of applicable licenses is permitted.**

(Note to attorney: Would the removal of this provision cause any legal difficulties? Several commissioners would like to allow a primary residence or possibly farming of the balance of the subject parcel. If #11 needs to be included, could you give us an indication why, what does it do or protect?)

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Article 37.60 Residential Cultivation

37.60 Residential Cultivation

A. Residential Cultivation by a Qualifying Patient or Primary Caregiver shall be permitted in any district and shall be governed by the following standards:

1. All Commercial Recreational and Medical establishments shall be governed by the Special Use Permit standards in Article 25.22.E.
2. All marihuana plants or product must be contained within the dwelling, or enclosed structure which prevents access by unauthorized persons.
3. Only one individual may operate within a Residential Cultivation establishment.
4. The qualifying patient or Primary Caregiver must possess and maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or their successors.
5. Primary Caregivers shall comply with the standards set forth in accordance with MMA, MCL 33.26421, et seq as to the number of plants, ounces of usable Marihuana, record keeping, and security to prevent theft of stored product.
6. Residential Cultivation establishments shall obtain all necessary building, electrical, plumbing and mechanical permits for work required to house or maintain equipment used to support the cultivation, growing, or harvesting of Marihuana.
7. There shall be no external evidence, signage, odor, or lighting related to the Residential Cultivation operation detectable from the exterior of the property.
8. 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 Township.
9. No equipment or process shall be used which creates noise, dust, vibration, glare, fumes, odor or electrical interference detectable to the normal senses beyond the parcel boundary.

(Note to attorney: We did not want to include a requirement for Primary Caregivers to register with the Township. Does this cause a conflict with the requirements outlined in the Township GO 59 and 60 which appear to define a Primary Caregiver as a marihuana establishment and also require all marihuana establishments to have a township permit thus making them illegal if not registered with the township?)

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Partial List of Resources Consulted:

Kaskaska Medical Marihuana Ordinance” only the first 7 pages are relevant to us.

Acme Township excerpt provided in the March PC packet

Township Attorney version provided in the Feb. PC packet

Whitewater Township GO 59 and 60 in the March 24 PC packet