



CITY OF ALBION PLANNING COMMISSION

REGULAR MEETING

TUESDAY, NOVEMBER 21, 2017

COUNCIL CHAMBERS

7:00 P.M.

AGENDA

- I. Call To Order (Reminder: turn off cell phones)
- II. Roll Call of the Commission
- III. Approval of Prior Meeting Minutes –
 - A. October 17, 2017
- IV. Correspondence
- V. Public Hearing
 - A. Future Land Use & Zoning Plan
- VI. Order of Business
 - A. Approval of Resolution to Present the Future Land Use and Zoning Plan to Albion City Council for Final Adoption
 - B. Approve 2018 Meeting Dates
 - C. Discussion-Medical Marijuana Zoning Ordinance
 - D. Excuse Absent Commissioners
- VII. Public Comments (Persons addressing the Planning Commission shall limit their comments to no more than three (3) minutes. Proper decorum is required.)
- VIII. Adjournment

PLANNING COMMISSION PUBLIC HEARING PROCESS

- 1) The Planning Commission Chair opens the hearing
- 2) Chair summarized the process
- 3) Staff presents report on applicant's request
- 4) Chair reads any correspondence into the record
- 5) Public speaking portion of hearing
 - Individuals in support
 - Opposition speakers
 - Questions & rebuttal (directed through the Chair)
 - Public speaking portion of hearing closed
- 6) Finding of facts
- 7) Board begins deliberations
- 8) Motion is made
- 9) Roll call vote taken

Planning Commission
October 17, 2017

I. Call To Order

The October 17, 2017 Planning Commission meeting was called to order at 7:00 p.m. by Chairperson Strander and a quorum declared.

II. Roll Call of the Commission

PRESENT: S Kipp, T Pitt, S Ponds, L Reid, G Strand, G Strander.

ABSENT: G Brown

Staff Present: S Mitchell, City Manager, J Domingo, City Clerk; D Nelson, EDC Project Manager and J Tracy, Director Building, Planning & Code Enforcement

III. Approval of Prior Meeting Minutes-
A. September 19, 2017

T Pitt moved, S Kipp supported, CARRIED, to approve the Prior Planning Commission minutes as presented. (Voice Vote)

IV. Correspondence-None

V. Order of Business

A. Zoning Ordinance Proposal-Denise Cline

Danielle Nelson, EDC Project Manager stated the City has received funding from the MEDC and Albion Community Foundation to cover the cost of the zoning re-write. Denise Cline, Northeast Michigan Council of Governments will be the point person for the zoning re-write. The Planning Commission had discussed at the last meeting of combining the monthly Planning Commission meetings and the zoning review meetings.

Denise Cline, Northeast Michigan Council of Governments stated she has been sub-contracted by South Michigan Planning Council for the zoning re-write for the City. She stated the process in which she does the zoning re-writes are as follows:

Organization of Ordinance

1. Purpose & Authority
2. Definitions
3. General Provisions
4. District Regulations

5. Site Plan Review
6. Special Uses
7. Supplemental Site Development Standards
8. Zoning Board of Appeals
9. Administration and Enforcement of the Zoning Ordinance
10. Amendments & Adoption

Preparation of Draft Text:

Draft text is prepared prior to the meeting at which that text will be reviewed. Current text is edited with strikeouts and additions (in an alternate color). Text will also be suggested to cover topics not addressed or which better addresses current and new sections of the ordinance. Text will be transmitted at least one week prior to the meeting.

Meetings-10

The Consultant will work with a sub-committee or the full Planning Commission. Meetings will be held at the Albion city offices. Text will be reviewed at each meeting section by section with the consultant. Ten meetings will be held to cover the entire ordinance.

Meeting 1-Introduction and Definitions

Meeting 2-General Provisions-Part I

Meeting 3-General Provisions-Part II

Meeting 4-District Regulations

Meeting 5-Use Matrix

Meeting 6-Site Plan Review/Special Uses

Meeting 7-Supplemental Regulations-Part I

Meeting 8-Supplemental Regulations-Part II

Meeting 9-ZBA, Administrative & Amendments

Meeting 10-Overview

Diagrams:

The consultant will create diagrams throughout the ordinance depicting district regulations, design standards and general standards.

Adoption Process:

The consultant will assist with the adoption process including public notices and adoption notices.

Final Document:

The final document will be provided in color. The final document will be made interactive with:

1. Links to other referenced sections of the ordinance;
2. Links to referenced local, state and federal laws;
3. Links to referenced websites;
4. Links from the main Table of Contents;

5. Links to each section from each Article's Table of Contents (contained on the first page of each separate article); and
6. Links to each Article in a Table of Contents depicting the Article tabs at the bottom of each page; and
7. Return to previous page link

Questions/Comments from the Planning Commission:

- Where does the public comment come in? All meetings are open and we encourage citizens and members of the media to come to the meetings. There will also be a public hearing prior to the adoption once the re-write is complete.
- What is the time frame for the meetings? The zoning meetings will be at minimum 2 hours or more.
- Does the Planning Commission wish to form a sub-committee to work on the zoning re-write or have the zoning meetings as part of the monthly Planning Commission meetings?
- Can the Planning Commission meetings start earlier? *A notice would need to be posted if the meeting time changes.*
- How many members would be interested in serving on the zoning sub-committee?

The consensus of the Planning Commission is to move forward with a sub-committee with Planning Commission members S Kipp, T Pitt, L Reid and S Ponds serving on the committee and see how that works out.

Comments were received from Commissioners G Strand, T Pitt and L Reid and Danielle Nelson, EDC Project Manager.

T Pitt moved, G Strand supported, CARRIED, to Accept Proposal with South Michigan Planning Council for the zoning re-write. (Voice Vote)

B. Discussion Future Land Use-Danielle Nelson

Danielle Nelson, EDC Project Manager updated the Planning Commission on Future Land Use with the following:

- The Future Land Use is representation of how land should be used to best serve the public in coming years pertaining to zoning.
- The Future Land Use draft plan is currently in the public input stage
- The plan was presented at the October meeting of the DDA Board
- The Future Land Use and Zoning Plan are Phase II of the Comprehensive Plan
- City Council will hold the public hearing on November 6th, 2017
- Additional mixed use was added to Austin Avenue, Superior Street and Eaton Street
- This will simplify zoning districts
- Future Land Use Categories are:

1. Mixed Use District
2. Residential District
3. Commercial District
4. Manufacturing District
5. College District

Comments were received from Commissioner G Strander and City Manager Mitchell.

C. Review & Approval of Guide to Development

Danielle Nelson gave the following update on the Guide to Development:

- This is a user friendly document for future development
- PDF will be available on City's website
- This is a living document that will change and be updated as needed and also annually
- The following corrections will be made before making document public:
 - Formatting on page 19
 - Checking to insure building and fire codes are correct on last page of the document
 - Add USDA contact information
 - Any corrections or updates should be directed to Director of Planning, Building & Code Enforcement Tracy.

Comments were received from Commissioner G Strand, City Manager Mitchell and Director of Planning, Building & Code Enforcement Tracy.

S Ponds moved, T Pitt supported, **CARRIED**, to Approve Guide to Development as presented. (VOICE VOTE)

D. Review Comprehensive Plan

City Manager Mitchell stated there are no current updates.

E. Excuse Absent Commissioners

L Reid moved, S Ponds supported, **FAILED**, to excuse Commissioner G Brown.

(2-3, Voice Vote) (S Kipp, T Pitt, G Strander dissenting)

VI. Public Comments

No public comments were received.

Commissioner comments were as follows:

Commissioner T. Pitt asked if the Council has made any decisions in regard to Medical Marijuana facilities.

City Manager Mitchell stated the Council had a discussion at the October 16th, 2017 meeting and requested a survey Council Members may complete to indicate interest and types of licensing.

Commissioner G. Stand asked if City Manager Mitchell would be present at the next Planning Commission meeting.

Director of Planning, Building & Code Enforcement Tracy stated they are working with Consumers for demolition of the Ponderosa building. The property has been purchased including the strip mall.

VII. Adjournment

T Pitt moved, S Kipp supported, CARRIED, to adjourn the meeting.
Meeting adjourned at 8:02 p.m.

Recorded By: Jill Domingo, City Clerk

A Resolution to Present the Future Land Use and Zoning
Plan to Albion City Council for Final Adoption

November 21, 2017

Albion Planning Commission Resolution to present the Future Land Use and Zoning Plan to Albion City Council for Final Adoption

WHEREAS the Albion City Council has submitted their recommendations on the Future Land Use and Zoning Plan to the Albion Planning Commission for consideration, and;

WHEREAS the Albion City Council held a 63-day public comment period on the Future Land Use and Zoning Plan during with public hearings have been held, and;

WHEREAS the City of Albion is required to adopt a Future Land Use and Zoning Plan with the Comprehensive Plan in compliance with the Michigan Planning Enabling Act (Public Act 33 of 2008), and;

WHEREAS the Albion Planning Commission has made edits to the Future Land Use and Zoning Plan to reflect public comments and City Council recommendations, and;

WHEREAS the Albion Planning Commission has begun the process of rewriting the Zoning Ordinance and Code with the direction of a consultant which requires the completion and adoption of the Future Land Use and Zoning Plan, and;

WHEREAS the Albion Planning Commission feels that the Future Land Use and Zoning Plan reflects as accurately as possible the intent and goals of the 2017-2022 Comprehensive Plan and the desires of Albion residents for how land shall be used in the City of Albion

THEREFORE BE IT RESOLVED that the Albion Planning Commission presents the Future Land Use and Zoning Plan and a Summary of Edits to Albion City Council for Final Adoption.

Motion by Planning Commission Member _____ and supported by Planning Commission Member _____ to approve the foregoing resolution.

AYES _____

NAYS _____

ABSENT _____

RESOLUTION DECLARED ADOPTED

CERTIFICATION

I hereby certify that the above resolution was adopted on November 21, 2017, at a regular meeting of the Albion Planning Commission, and this is a true copy of that resolution.

Jill Domingo, Clerk

November 21, 2017

2018 MEETING DATES

PLANNING COMMISSION	COUNCIL CHAMBERS 7:00 P.M. 3rd TUESDAY OF THE MONTH
JANUARY 17, 2018 (WEDNESDAY)	JULY 17, 2018
FEBRUARY 21, 2018 (WEDNESDAY)	AUGUST 21, 2018
MARCH 20, 2018	SEPTEMBER 18, 2018
APRIL 17, 2018	OCTOBER 16, 2018
MAY 15, 2018	NOVEMBER 20, 2018
JUNE 19, 2018	DECEMBER 18, 2018

ZBA	COUNCIL CHAMBERS 5:30 P.M. 2ND TUESDAY OF THE MONTH
JANUARY 9, 2018	JULY 10, 2018
FEBRUARY 13, 2018	AUGUST 14, 2018
MARCH 13, 2018	SEPTEMBER 11, 2018
APRIL 10, 2018	OCTOBER 9, 2018
MAY 8, 2018	NOVEMBER 13, 2018
JUNE 12, 2018	DECEMBER 11, 2018

ABA	ALTERNATE MAYOR'S OFFICE/MAPLE GROVE 8:00 A.M. QUARTERLY MEETINGS-2nd THURSDAY OF THE MONTH
MARCH 8, 2018	MAYOR'S OFFICE-CITY HALL
JUNE 14, 2018	**5:00 P.M. MAPLE GROVE COMMUNITY ROOM
SEPTEMBER 13, 2018	MAYOR'S OFFICE-CITY HALL
DECEMBER 13, 2018	MAYOR'S OFFICE-CITY HALL

DDA	MAYOR'S OFFICE 8:00 A.M. QUARTERLY-2ND WEDNESDAY OF THE MONTH
JANUARY 10, 2018	JULY 11, 2018
APRIL 11, 2018	OCTOBER 10, 2018

City of Albion
Special Session Minutes
November 2, 2017

I. CALL TO ORDER

Mayor Brown called the meeting to order at 7:00 p.m.

II. ROLL CALL

PRESENT: Council Members Maurice Barnes (1), Lenn Reid (2), Sonya Brown (3), Marcola Lawler (4) Jeanette Spicer (5), and Andrew French (6) and Mayor Brown.

STAFF PRESENT:

Sheryl Mitchell, City Manager and Cullen Harkness, City Attorney; Jill Domingo, City Clerk; Amy Deprez, EDC Director; Scott Kipp, Chief Public Safety and John Tracy, Director Planning, Building & Code Enforcement.

III. PUBLIC COMMENTS (Persons addressing the City Council shall limit their comments to **agenda items only** and to no more than three (3) minutes. Proper decorum is required).

Public comments were received from Carlen Kernish, 903 Cram Lane; Kristin Tenson, Wild Bill's Tobacco; Peter Behncke, Comco; Al Smith, 1209 Adams St; Matthew Abel, HRD Industries; Tom Pitt, 115 Crandall St; Holly Zblewski, 508 Haven Rd and Nathan Fuentes, 12940 28 Mile Rd.

IV. Discussion/Authorization to Draft Ordinances Medical Marijuana Facilities

City Manager Mitchell gave a brief overview of the Medical Marijuana Licensing stating there are five (5) types of licensing which are:

1. Processor
2. Secure Transporter
3. Safety Compliance
4. Dispensaries
5. Growers

The Council may approve all or none of the above facilities for licensing.

City Attorney Harkness stated that per state law, growers must be located in industrial areas only.

Questions/Comments from the Council were as follows:

- Would like to see public access limited for both processors and growers
- Would prefer not to see any of the licensing facilities in the downtown area
- Would like to see the highway service district utilized

- Ordinances created for medical marijuana licensing may also create changes to some zoning ordinances
- Only interested in all facilities being located in industrial zoned areas and would like this specified in ordinance
- Has the State approved regulations for Medical Marijuana?
- The State has approved the regulations but will not be issuing licenses until December, 2017
- City Attorney would not recommend medical marijuana facilities being located on the 425 property as we agreements with other municipalities
- Staff recommends facilities should be kept 1,000 feet away from schools, churches, childcare and residential areas

Comments were received from Council Members French, Lawler, Brown, Spicer, Barnes and Reid; Mayor Brown; City Attorney Harkness and City Manager Mitchell.

- ❖ *Council Member French made a motion to Vote in Favor of Moving Forward with Draft Ordinances for Medical Marijuana Facilities.*

French moved, Barnes supported, CARRIED, to Vote in Favor of Moving Forward with Draft Ordinances for Medical Marijuana Facilities. (6-1, rcv) (Lawler dissenting).

- ❖ *Council Member French made a motion to Reject Authorizing Licenses for Dispensaries inside the City Limits.*

French moved, Lawler supported, CARRIED, to Reject Dispensaries to Operate inside City limits as proposed. (5-2, rcv) (Barnes & Brown dissenting)

Comments were received from Council Members Spicer, Lawler and French; Mayor Brown; City Attorney Harkness and City Manager Mitchell.

- ❖ *Council Member Brown made a motion to Allow for Safety Compliance Facilities within the City.*

Brown moved, Spicer, supported, CARRIED, to Allow for Safety Compliance Facilities within the City. (5-2, rcv) (French and Reid dissenting).

Comments were received from Council Members Barnes and French and Mayor Brown; City Manager Mitchell and Amy Deprez, EDC Director.

- ❖ *Council Member Barnes made a motion to Approve Secure Transporters within the City.*

Barnes moved, Brown supported, to Approve Secure Transporters within the City. (5-2, rcv) (Reid and French dissenting).

Comments were received from Council Member French.

- ❖ *Council Member Barnes made a motion to Approve Processors within the City.*

Barnes moved, Brown supported, to Approve Processors within the City. (5-2, rcv)(French and Reid dissenting).

Comments were received from Council Member French.

❖ *Council Member Barnes made a motion to Accept Growers within the City.*

Barnes moved, Brown supported, CARRIED, to Accept Growers within the City as presented. (7-0, rcv)

Mayor Brown stated the following four facilities were approved for licensing:

1. Safety Compliance
2. Processors
3. Growers
4. Secure Transporters

The growers must be in M -industrial district classifications while the other three (safety compliance, processors & secure transporters) may be located in any zoning classification.

❖ *Council Member French made a motion Growers and Growing Facilities to be located in M1P, M2P and M2 Districts only.*

French moved, no support, FAILS, for Growers and Growing Facilities to be located in M1P, M2P and M2 Districts only.

Comments were received from Council Members Lawler, Brown, Spicer, Barnes, and French; Mayor Brown and Director of Planning, Building & Code Enforcement Tracy and City Attorney Harkness.

❖ *Council Member French made a motion for Growers and Growing Facilities to be located in M1P, M2P and M2 Districts only for the second time.*

French moved, Reid supported, CARRIED to Allow for Growers and Growing Facilities to be located in M1P, M2P and M2 Districts only. (5-2, rcv)(Barnes and Spicer dissenting).

Comments were received from Council Members Brown, Lawler and French; Mayor Brown and City Attorney Harkness.

❖ *Council Member French made a motion for Processors to be limited to M1P, M2 and M2P Districts only.*

French moved, Reid supported, FAILED, for Processors to be limited to M1P, M2 and M2P Districts only. (2-5, rcv) (Brown, Lawler, Spicer, Barnes and Mayor Brown dissenting).

Comments were received from Council Members Reid and Barnes, Mayor Brown and Director of Planning, Building & Code Enforcement Tracy.

- ❖ *Council Member Brown made a motion to Restrict Processors to B3, M1P, M2 and M2P Districts.*

Brown moved, Barnes supported, CARRIED, to Restrict Processors to B3, M1P, M2 and M2P Districts. (5-2, rcv) (French and Reid dissenting).

Comments were received by Council Members Lawler and Barnes, Mayor Brown and City Attorney Harkness.

- ❖ *Council Member Spicer made a motion to Restrict Secure Transporters to B3, M1P, M2 & M2P Districts only.*

Spicer moved, Barnes supported, CARRIED, to Restrict Secure Transporters to B3, M1P, M2 & M2P Districts only. (6-1, rcv) (French dissenting).

Comments were received from Council Members Spicer and Lawler.

- ❖ *Council Member Barnes made a motion to Restrict Safety Compliance to B3, M1P, M2 and M2P Districts only.*

Barnes moved, Brown supported, CARRIED, to Restrict Safety Compliance to B3, M1P, M2 and M2P Districts only. (5-2, rcv) (French and Reid dissenting).

Comments were received from Council Member French, Mayor Brown and City Attorney Harkness.

- ❖ *Council Member Barnes made a motion to accept all Three Types of Growers.*

Barnes moved, Brown supported, CARRIED, to accept all Three Types of Growers. (4-3, rcv) (French, Reid & Lawler dissenting).

Mayor Brown asked about the next steps of the process.

City Manager Mitchell stated the next steps will involve drafting the Medical Marijuana licenses and also having the Planning Commission work on ordinances relative to zoning changes that may need to be made.

City Attorney Harkness requested the Medical Marijuana Licensing Ordinance be added to the first agenda in December.

Comments were received from Mayor Brown.

V. Motion to Excuse Absent Council Member (s) (VV)

No action was necessary as all members were present.

VI. PUBLIC COMMENTS (Persons addressing the City Council shall limit their comments to no more than three (3) minutes. Proper decorum is required).

Comments were received from Jay Loomis, 408 W. Ash St; Andrew Trexel, Visa AmeriCorps member; City Manager Mitchell; Kristin Tenson, Wild Bill's Tobacco; Peter Behncke, Comco LLC and Matthew Abel, HRD Industries.

VII. ADJOURNMENT

Brown moved, Spicer supported, CARRIED, to ADJOURN Special Council Session. (7-0, vv).

Mayor Brown adjourned the Special Session at 8:50 p.m.

Date

Jill Domingo
City Clerk

Sample Ordinances Regulating Medical Marijuana Facilities

DISCLAIMER: As with all materials made available by MSU Extension, this document is as an example prepared FOR EDUCATIONAL PURPOSES ONLY and is not intended to provide legal advice. You should consult an attorney experienced in municipal law before adopting any local ordinance. This sample ordinance, or any portion of it, must be adapted to local circumstances and may need to be updated as laws change. Use of these materials is at the sole risk of the user.

There are many ways other than those outlined in these samples to address the issues regarding medical marijuana facilities. Users of this document should first review the companion PDF, *Land Use Series*, “Sample Ordinances Regulating Medical Marijuana Facilities, found at:

http://msue.anr.msu.edu/topic/planning/zoning/medical_marihuana_facilities_licensing_act.

Please note that the text below includes various portions in brackets that require information to be inserted by the municipality.

The police power ordinance is intended to be adopted with the zoning ordinance amendments that follow to regulate the location of the facilities and establish standards for approval.

The sample zoning ordinance amendments were written with the following assumptions:

- **The municipality has adopted a separate police power ordinance authorizing one or more types of medical marijuana facilities.**
- The municipality already has a site plan review process in its zoning ordinance.
- The municipality’s zoning ordinance already provides a definition for “person” that includes corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- The section numbering system follows the standard system of codification presented in MSU Extension’s Land Use Series: “Organization and Codification of a Zoning Ordinance,” which is available at lu.msue.msu.edu.

Sample Police Power Ordinance

AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.

Section 1001. Purpose

- A. It is the intent of this ordinance to authorize the establishment of certain types of medical marijuana facilities in the [*municipality*] and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marijuana facility in the [*municipality*] through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marijuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marijuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
- C. As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marijuana, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

Section 1002. Definitions

For the purposes of this ordinance:

- A. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- D. "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.
- E. "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- F. "Marijuana" 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.
- G. "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.
- H. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- I. "Processor" means a licensee that is a commercial entity located in Michigan 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.

- J. "Provisioning center" means a licensee that is a commercial entity located in Michigan 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.
- K. "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.
- L. "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.

Section 1003. Authorization of Facilities and Fee.

- A. The maximum number of each type of marijuana facility allowed in the [*municipality*] shall be as follows.

<u>Facility</u>	<u>Number</u>
Grower	[#]
Processor	[#]
Secure transporter	[#]
Provisioning center	[#]
Safety compliance facility	[#]

- B. At least every [#] years after adoption of this ordinance, [*council/board*] shall review the maximum number of each type of marijuana facility allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the [*council/board*].
- C. A nonrefundable fee shall be paid by each marijuana facility licensed under this ordinance in an annual amount of not more than \$5,000.00 as set by resolution of the [*municipality*] [*council/board*].

Section 1004. Requirements and Procedure for Issuing License

- A. No person shall operate a marijuana facility in [municipality] without a valid marijuana facility license issued by the [municipality] pursuant to the provisions of this ordinance.
- B. Every applicant for a license to operate a marijuana facility shall file an application in the [municipal official's] office upon a form provided by the [municipality]. [The application shall contain the following information:]
- C. Every applicant for a license to operate a marijuana facility shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- D. Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the [municipal official] shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The [municipal official] shall act to approve or deny an application not later than fourteen (14) days from the date the application was accepted. If approved, the [municipal official] shall issue the applicant a provisional license.
- E. A provisional license means only that the applicant has submitted a valid application for a marijuana facility license, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the [municipality]. A provisional license will lapse and be void if such permits and approvals are not diligently pursued to completion.
- F. Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the [municipal official] shall approve or deny the marijuana facility license. The [municipal official] shall issue marijuana facility licenses in order of the sequential application number previously assigned.
- G. Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility license under this ordinance and continued operation of any marijuana facility.

H. A marijuana facility license issued under this ordinance is not transferable.

Section 1005. License Renewal

- A. A marijuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid marijuana facility license may be renewed on an annual basis by submitting a renewal application upon a form provided by the [municipality] and payment of the annual license fee. Application to renew a marijuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

Section 1006. Applicability

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marijuana facility were established without authorization before the effective date of this ordinance.

Section 1007. Penalties and Enforcement.

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than [\$#.##], plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the [municipality] may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the [municipal official], or such other [city/village/township] official as may be designated from time to time by resolution of the [council/board].

Section 1008. Severability.

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

Section 1009. Effective Date

This Ordinance shall take effect [*insert provision applicable to municipality*] in accordance with law.

Sample Zoning Ordinance Amendments

Definitions

Add the following definitions to Section 503 (the section of the zoning ordinance for definitions of words).

"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.

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

"Marijuana" 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.

"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.

"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.

"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.

"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.

"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.

Zoning Districts

Add, where appropriate, to each zoning district's list of possible special land uses the following, where wanted:

- A. A marijuana grower as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s);
- B. A marijuana processor as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s);
- C. A marijuana provisioning center as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s);
- D. A marijuana secure transporter as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s); and
- E. A marijuana safety compliance facility as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s).

Special Use Standards

Add a section to Article 16 (the part of the zoning ordinance for specific special use permit standards).

16XX. Marijuana grower, marijuana processor, marijuana provisioning center, Marijuana secure transporter, and Marijuana safety compliance facility:

- A. 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 86 [*the article containing the procedural process for special use permits*] in the specified zone(s), provided that:
1. 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 [*municipality*]. In the event that a court with jurisdiction declares some or all of this article invalid, then the [*municipality*] may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.
 2. At the time of application 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.
 3. At the time of application for a special use permit the marijuana facility must be licensed by [*municipality*], [or have the [*municipality*] license concurrently in process with the special use permit and site plan approval], and then must be at all times in compliance with [*the municipality's police power authorizing ordinance*].
 4. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the [*municipality*].
 5. The [*municipality*] 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 municipality's police power authorizing ordinance*], or the terms of the special use permit and approved site plan are not met.

6. 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.
 7. Signage requirements for marijuana facilities, unless otherwise specified, are as provided in the *[the article or ordinance containing the sign regulations]*.
- B. Marijuana growers and marijuana processors shall be subject to the following standards:
1. Minimum Lot Size. A minimum lot size standard shall apply as follows:
 - a. In the *[list the specific rural and agricultural district(s)]*, the subject property shall be a minimum of [#] acres, except that if the majority of abutting properties are equal to or greater than *[lesser #]* acres, the subject property shall be a minimum of *[lesser #]* acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive, or private, public, or road.
 - b. In the *[list the specific industrial district(s)]*, the subject property shall be a minimum of [#] acres, except that if outdoor production is proposed, the subject property shall be a minimum of *[greater #]* acres.
 2. Minimum Yard Depth/Distance from Lot Lines. The minimum front, rear, and side yard setbacks for any structure used for marijuana production shall be 50 feet. The minimum front, rear, and side yard setbacks for outdoor production shall be a minimum of 100 feet from all lot lines. _The minimum water front setback for any structure or outdoor production shall be a minimum of 100 feet from the ordinary high water mark.
 3. Indoor Production and Processing. In the *[list the specific industrial district(s)]*, marijuana production shall be located entirely within one or more completely enclosed buildings. In the *[list the specific industrial district(s)]*, marijuana processing shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors.
 4. Maximum Building Floor Space. The following standards apply in the *[list the specific industrial district(s)]*:
 - a. A maximum of [#] square feet of building floor space may be used for all activities associated with marijuana production on the subject property.
 - b. If only a portion of a building is authorized for use in marijuana production, a partition wall at least seven feet in height, or a height as required by the

applicable building codes, whichever is greater, shall separate the marijuana production 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.

5. Lighting. Lighting shall be regulated as follows:

- a. 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.
- b. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.

6. Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana production or marijuana processing.

- a. 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.
- b. 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.
- c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
- d. Negative air pressure shall be maintained inside the building.
- e. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
- f. 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 to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.

7. 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.

8. Residency. In the [*list specific rural or agricultural district(s)*], an owner of the subject property, or the licensee associated with the subject property shall reside in a dwelling unit on the subject property unless there is a 24-hour, seven-days-a-week staffed security presence on the property with a direct phone number supplied to local law enforcement,

C. Provisioning centers shall be subject to the following standards:

1. Hours. A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 9:00 a.m. and 9:00 p.m.
2. Indoor Activities. All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.
3. Other Activities. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
4. Nonconforming Uses. A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.
5. 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.
6. Buffer Zones. A provisioning center may not be located within the distance specified from the uses below as determined by the [municipality]. The distance shall be measured as the shortest straight line distance between the property line of the location of the following uses to the property line of the parcel on which provisioning center premises is located, whichever is less .
 - a. A provisioning center may not be located within [#] feet of the 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; or a public library .
 - b. A provisioning center may not be located within [#] feet of a religious institution or a residentially zoned property.

7. Odor. As used in this subsection, building means the building, or portion thereof, used for a provisioning center.
- a. 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.
 - b. 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.
 - c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - d. Negative air pressure shall be maintained inside the building.
 - e. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - f. An alternative odor control system is permitted if the special use 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 to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted

D. Marijuana Safety Compliance Facility shall be subject to the following standards:

1. A marijuana safety compliance facility shall be subject to the special regulations and standards applicable to [*medical laboratories and medical testing facilities*] in the ordinance.
2. All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.

E. Marijuana Secure transporter shall be subject to the following standards:

1. A marijuana secure transporter shall be subject to the special regulations and standards applicable to [*transportation and warehousing*] uses in the [ordinance] and the following standards.
2. Any buildings or structures used for the containment of stored materials shall be located no closer than [#] feet from any property line.

Nonconformities

Add a section to Article 80 (the part of the zoning ordinance about nonconforming uses).

- A. No marijuana 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 marijuana facility be deemed a legal nonconforming use under this [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 [ordinance] or any amendment thereto.
- C. Discontinuation of a state medical marijuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.



Land Use Series: Sample Ordinances Regulating Medical Marijuana Facilities

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DISCLAIMER:

As with all materials made available by MSU Extension, this document is as an example prepared FOR EDUCATIONAL PURPOSES ONLY and is not intended to provide legal advice. You should consult an attorney experienced in municipal law before adopting any local ordinance. This sample ordinance, or any portion of it, must be adapted to local circumstances and may need to be updated as laws change. Use of these materials is at the sole risk of the user.

INTRODUCTION:

This bulletin provides a sample police power ordinance for authorizing one or more types of medical marijuana facilities in a municipality under the Medical Marijuana Facilities Licensing Act, MCL 333.27101, et seq. ("MMFLA") and the sample zoning ordinance amendments that should be adopted with it to regulate the location of the facilities and establish standards for approval. The zoning amendments must be adopted pursuant to the Michigan Zoning Enabling Act. A step-by-step checklist of procedures to amend a zoning ordinance is available from MSU Extension's Land Use Series at lu.msue.msu.edu. See "Checklist # 4: For Adoption of a Zoning Ordinance Amendment (including some PUDs) in Michigan."

A. To provide for medical marijuana facilities in a city, village, or township with its own existing zoning ordinance:

1. Adopt a police power ordinance to authorize one or more facility types, and
2. Adopt a zoning ordinance amendment regulating the location of the facilities and establishing standards for approval.

B. To provide for medical marijuana facilities in a township relying on county zoning:

1. Adopt a police power ordinance to authorize one or more facility types. (Under the MMFLA only a city, village, or township can adopt a police power ordinance to authorize facilities.)
2. Work with the county planning commission to place provisions in the county's zoning ordinance regarding in which zoning districts to allow each facility type and special land use standards, including one for approval being location in a township that has adopted an ordinance authorizing such facility type.

C. A city or village without zoning may adopt a police power ordinance to provide for one or more medical marijuana facility types, but should seek legal advice from an experienced municipal attorney regarding whether a police power ordinance may be used to regulate placement or other aspects of facilities.

D. A township without township or county zoning (or county zoning without amendments to regulate the location of facilities) may adopt a police power ordinance to provide for one or more medical marijuana facility types but probably cannot regulate where they are located because a township cannot exercise zoning power under the guise of a police power ordinance (*Forest Hill Energy-Fowler Farms, LLC. v. Twp of Bengal*).



Notes

There are many ways other than those outlined in this sample for a police power ordinance to address the issues regarding medical marihuana facilities. It is intended to be adopted with zoning ordinance amendments to regulate the location of the facilities and establish standards for approval. (See sample following.) **Please consult an attorney experienced in municipal law before adopting any local ordinance.**

Sample Police Power Ordinance

AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.

Section 1001. Purpose

- A. It is the intent of this ordinance to authorize the establishment of certain types of medical marijuana facilities in the *[municipality]* and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marijuana facility in the *[municipality]* through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marijuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
- C. As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marijuana, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

Section 1002. Definitions

For the purposes of this ordinance:

- A. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.



Notes

- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- D. "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.
- E. "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- F. "Marijuana" 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.
- G. "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.
- H. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- I. "Processor" means a licensee that is a commercial entity located in Michigan 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.
- J. "Provisioning center" means a licensee that is a commercial entity located in Michigan 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.



Notes

A municipality may choose to authorize one or more facility types without authorizing all facility types.

A municipality may want to specify certain items of the information required on the application.

- K. "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.
- L. "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.

Section 1003. Authorization of Facilities and Fee.

- A. The maximum number of each type of marijuana facility allowed in the [municipality] shall be as follows.

<u>Facility</u>	<u>Number</u>
Grower	[#]
Processor	[#]
Secure transporter	[#]
Provisioning center	[#]
Safety compliance facility	[#]

- B. At least every [#] years after adoption of this ordinance, [council/board] shall review the maximum number of each type of marijuana facility allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the [council/board].
- C. A nonrefundable fee shall be paid by each marijuana facility licensed under this ordinance in an annual amount of not more than \$5,000.00 as set by resolution of the [municipality] [council/board].

Section 1004. Requirements and Procedure for Issuing License

- A. No person shall operate a marijuana facility in [municipality] without a valid marijuana facility license issued by the [municipality] pursuant to the provisions of this ordinance.
- B. Every applicant for a license to operate a marijuana facility shall file an application in the [municipal official's] office upon a form provided by the [municipality]. [The application shall contain the following information:]
- C. Every applicant for a license to operate a marijuana facility shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.



Notes

The police power and zoning ordinances could also be drafted to require the zoning approvals before any municipal licensing process.

A municipality may specify other license conditions and provide for inspections to ensure compliance.

- D. Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the *[municipal official]* shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The *[municipal official]* shall act to approve or deny an application not later than fourteen (14) days from the date the application was accepted. If approved, the *[municipal official]* shall issue the applicant a provisional license.
- E. A provisional license means only that the applicant has submitted a valid application for a marijuana facility license, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the *[municipality]*. A provisional license will lapse and be void if such permits and approvals are not diligently pursued to completion.
- F. Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the *[municipal official]* shall approve or deny the marijuana facility license. The *[municipal official]* shall issue marijuana facility licenses in order of the sequential application number previously assigned.
- G. Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility license under this ordinance and continued operation of any marijuana facility.
- H. A marijuana facility license issued under this ordinance is not transferable.

Section 1005. License Renewal

- A. A marijuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid marijuana facility license may be renewed on an annual basis by submitting a renewal application upon a form provided by the *[municipality]* and payment of the annual license fee. Application to renew a marijuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

Section 1006. Applicability

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marijuana facility were established without authorization before the effective date of this ordinance.



Notes

Section 1007. Penalties and Enforcement.

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than [\$.##], plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the [*municipality*] may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the [*municipal official*], or such other [*city/village/township*] official as may be designated from time to time by resolution of the [*council/board*].

Section 1008. Severability.

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

Section 1009. Effective Date

This Ordinance shall take effect [*insert provision applicable to municipality*] in accordance with law.

**See also the following Sample
Zoning Ordinance Amendments**



Notes

There are many ways other than those outlined in these sample zoning ordinance amendments to address zoning issues regarding medical marijuana facilities. **Please consult an attorney experienced in municipal law before adopting any local ordinance.**

For additional information on the distinction between “agriculture” and “agriculture-like,” see MSU Extension’s Land Use Series: “Sample zoning for agriculture-like and urban agriculture” available at lu.msue.msu.edu.

Sample Zoning Ordinance Amendments

These sample zoning ordinance amendments were written with the following assumptions:

- **The municipality has adopted a separate police power ordinance (see sample above) authorizing one or more types of medical marijuana facilities.**
- The municipality already has a site plan review process in its zoning ordinance.
- The municipality’s zoning ordinance already provides a definition for “person” that includes corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- The section numbering system follows the standard system of codification presented in MSU Extension’s Land Use Series: “Organization and Codification of a Zoning Ordinance,” which is available at lu.msue.msu.edu.

Definitions

Add the following definitions to Section 503 (the section of the zoning ordinance for definitions of words).

“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.

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

“Marijuana” 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.

“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.

“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.

“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.

“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



Notes

The municipality will also want to require a site plan review for these facilities and should amend that process in their zoning ordinance as necessary to address the standards specific to these facilities.

The municipality may require in its special use or site plan procedure any information necessary to ensure full compliance with the provisions of state and local laws. Failure to provide required information may be the basis for disapproval of a special use permit and any related development permits and approvals.

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.

"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.

Zoning Districts

Add, where appropriate, to each zoning district's list of possible special land uses the following, where wanted:

- A. A marijuana grower as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s);
- B. A marijuana processor as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s);
- C. A marijuana provisioning center as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s);
- D. A marijuana secure transporter as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s); and
- E. A marijuana safety compliance facility as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s).

Special Use Standards

Add a section to Article 16 (the part of the zoning ordinance for specific special use permit standards).

16XX. Marijuana grower, marijuana processor, marijuana provisioning center, Marijuana secure transporter, and Marijuana safety compliance facility:



Notes

The municipality may want to require the state license prior to a zoning permit application, or prior to the site plan application, or prior to site plan approval, or even after approval of the [special use] zoning permit issued conditioned on site plan approval.

Building, electrical, mechanical, and plumbing codes must be enforced by the local government jurisdiction.

The municipality will want to reference its existing sign requirements in the zoning ordinance and/or other sign ordinance.

Signage may also become the subject of state regulations under its rulemaking authority for advertising.

- A. 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 86 [*the article containing the procedural process for special use permits*] in the specified zone(s), provided that:
1. 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 [*municipality*]. In the event that a court with jurisdiction declares some or all of this article invalid, then the [*municipality*] may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.
 2. At the time of application 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 Marijuana Act, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marijuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
 3. At the time of application for a special use permit the marijuana facility must be licensed by [*municipality*], [or have the [*municipality*] license concurrently in process with the special use permit and site plan approval], and then must be at all times in compliance with [*the municipality's police power authorizing ordinance*].
 4. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the [*municipality*].
 5. The [*municipality*] 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 municipality's police power authorizing ordinance*], or the terms of the special use permit and approved site plan are not met.
 6. 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.
 7. Signage requirements for marijuana facilities, unless otherwise specified, are as provided in the [*the article or ordinance containing the sign regulations*].
- B. Marijuana growers and marijuana processors shall be subject to the following standards:
1. Minimum Lot Size. A minimum lot size standard shall apply as follows:



Notes

Fencing and screening is normally a local concern, but special requirements for marijuana producers who grow plants outside may also become the subject of state regulations under its rulemaking authority.

To prevent inconsistencies, this standard may instead reference the municipality's existing outdoor lighting requirements and landscape standards that may also impact lighting .

- a. In the [*list the specific rural and agricultural district(s)*], the subject property shall be a minimum of [#] acres, except that if the majority of abutting properties are equal to or greater than [*lesser #*] acres, the subject property shall be a minimum of [*lesser #*] acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive, or private, public, or road.
- b. In the [*list the specific industrial district(s)*], the subject property shall be a minimum of [#] acres, except that if outdoor production is proposed, the subject property shall be a minimum of [*greater #*] acres.
2. Minimum Yard Depth/Distance from Lot Lines. The minimum front, rear, and side yard setbacks for any structure used for marijuana production shall be 50 feet. The minimum front, rear, and side yard setbacks for outdoor production shall be a minimum of 100 feet from all lot lines. The minimum water front setback for any structure or outdoor production shall be a minimum of 100 feet from the ordinary high water mark.
3. Indoor Production and Processing. In the [*list the specific industrial district(s)*], marijuana production shall be located entirely within one or more completely enclosed buildings. In the [*list the specific industrial district(s)*], marijuana processing shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors.
4. Maximum Building Floor Space. The following standards apply in the [*list the specific industrial district(s)*]:
 - a. A maximum of [#] square feet of building floor space may be used for all activities associated with marijuana production on the subject property.
 - b. If only a portion of a building is authorized for use in marijuana production, a partition wall at least seven feet in height, or a height as required by the applicable building codes, whichever is greater, shall separate the marijuana production 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.
5. Lighting. Lighting shall be regulated as follows:
 - a. 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.
 - b. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.



Notes

The municipality instead may want to reference its existing noise standards in the zoning ordinance.

Local governments may also enforce any noise and public nuisance ordinance as to odors, fumes, noise, dust, vibration, and the like.

The municipality may want to reference its existing provisions for escrow fees related to the costs of outside experts.

6. Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana production or marijuana processing.
 - a. 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.
 - b. 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.
 - c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - d. Negative air pressure shall be maintained inside the building.
 - e. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - f. 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 to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
 7. 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.
 8. Residency. In the [*list specific rural or agricultural district(s)*], an owner of the subject property, or the licensee associated with the subject property shall reside in a dwelling unit on the subject property unless there is a 24-hour, seven-days-a-week staffed security presence on the property with a direct phone number supplied to local law enforcement,
- C. Provisioning centers shall be subject to the following standards:
1. Hours. A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 9:00 a.m. and 9:00 p.m.



Notes

The focus here is on buffers from uses associated with children. Buffers from other uses are typically smaller. Some communities provide distances from adult entertainment uses, liquor stores, or other marijuana facilities. Municipalities should determine whether enough suitable parcels remain available after eliminating those due to buffers.

The same or different buffers can also be established for other facility types.

A buffer could instead be measured from the closest point of the building space occupied by the marijuana facility.

The municipality will want to edit the list of terms, such as school, to use those already defined in the zoning ordinance.

2. Indoor Activities. All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.
3. Other Activities. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
4. Nonconforming Uses. A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.
5. 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.
6. Buffer Zones. A provisioning center may not be located within the distance specified from the uses below as determined by the [municipality]. The distance shall be measured as the shortest straight line distance between the property line of the location of the following uses to the property line of the parcel on which provisioning center premises is located, whichever is less .
 - a. A provisioning center may not be located within [#] feet of the 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; or a public library .
 - b. A provisioning center may not be located within [#] feet of a religious institution or a residentially zoned property.
7. Odor. As used in this subsection, building means the building, or portion thereof, used for a provisioning center.
 - a. 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.
 - b. 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.



Notes

The municipality may want to reference its existing provisions for escrow fees related to the costs of outside experts.

The municipality will want to use the term for medical laboratory type uses already defined in the zoning ordinance.

The municipality will want to use the term for transportation and warehousing type uses already defined in the zoning ordinance.

- c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
- d. Negative air pressure shall be maintained inside the building.
- e. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
- f. An alternative odor control system is permitted if the special use 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 to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted

D. Marijuana Safety Compliance Facility shall be subject to the following standards:

1. A marijuana safety compliance facility shall be subject to the special regulations and standards applicable to [*medical laboratories and medical testing facilities*] in the ordinance.
2. all activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.

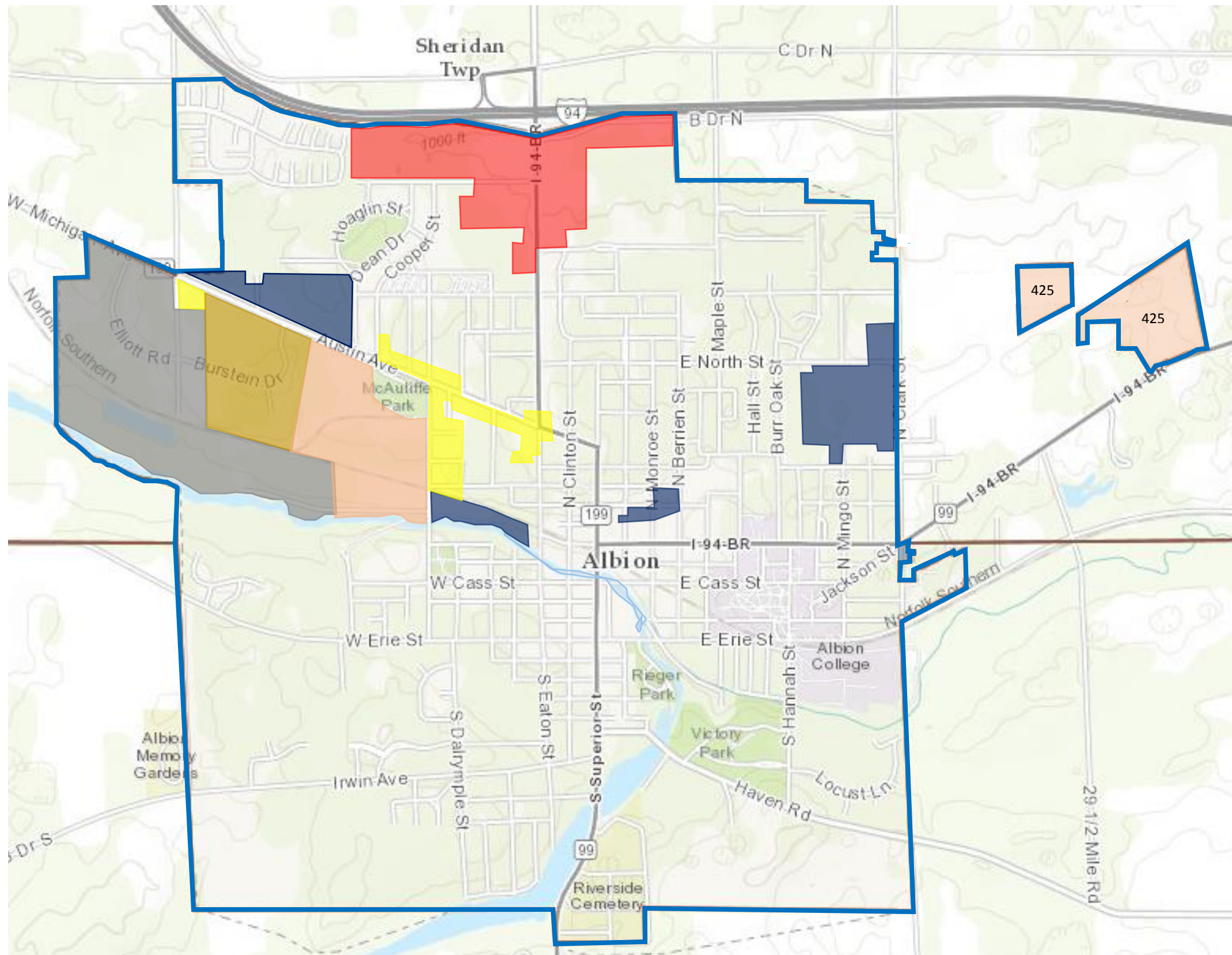
E. Marijuana Secure transporter shall be subject to the following standards:

1. A marijuana secure transporter shall be subject to the special regulations and standards applicable to [*transportation and warehousing*] uses in the [ordinance] and the following standards.
2. Any buildings or structures used for the containment of stored materials shall be located no closer than [#] feet from any property line.

Nonconformities

Add a section to Article 80 (the part of the zoning ordinance about nonconforming uses).

- A. No marijuana 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 marijuana facility be deemed a legal nonconforming use under this [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 [ordinance] or any amendment thereto.
- C. Discontinuation of a state medical marijuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.

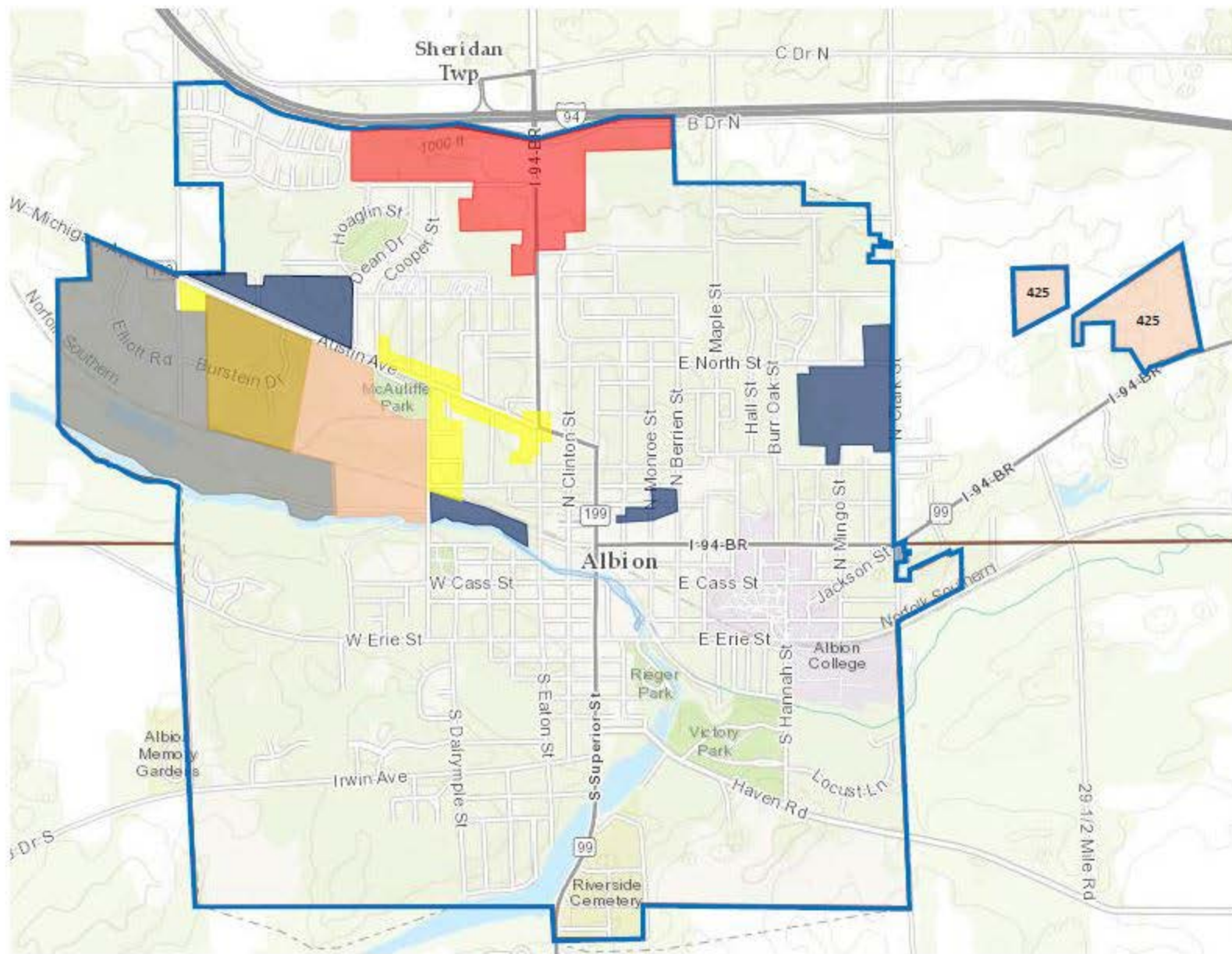


CITY OF ALBION



INDUSTRIAL & COMMERCIAL DISTRICTS

- B-1
- B-3
- M-1
- M-1-P
- M-2
- M-2-P
- CITY LIMIT



CITY OF ALBION



INDUSTRIAL & COMMERCIAL DISTRICTS

- B-1
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