



Michigan State University Extension
Land Use Series

Sample Ordinances Regulating Medical Marijuana Facilities

Original version: February 13, 2017

Last revised: September 7, 2017

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 following is offered as sample ordinance or ordinance amendment language. It is intended as a starting point for a community to use when considering this issue.

This is a sample, meaning that it is not a definitive recommendation by the authors or MSU Extension. A sample is a starting point for discussion and development of an ordinance, ordinance amendment, or zoning ordinance amendment that is appropriate for a particular community. Conversely a model ordinance, or amendment, would be presented as the ideal or utopia intended as a recommended approach. This is not a model ordinance, or ordinance amendment. That means any numerical standard (dimensional standard) offered in the sample zoning amendment is just a starting point for discussion. Often there is already discussion about the standard in the commentary which is intended to provide a community with information to decide what the numerical standard should be for a particular community.

*“Thirty seven million acres is
all the Michigan we will ever have”*
William G. Milliken

This is a fact sheet developed by experts on the topic(s) covered within MSU Extension. Its intent and use is to assist Michigan communities making public policy decisions on these issues. This work refers to university-based peer reviewed research, when available and conclusive, and based on the parameters of the law as it relates to the topic(s) in Michigan. This document is written for use in Michigan and is based only on Michigan law and statute. One should not assume the concepts and rules for zoning or other regulation by Michigan municipalities and counties apply in other states. In most cases they do not. This is not original research or a study proposing new findings or conclusions.

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Police Power Ordinance Introduction

The police power ordinance authorizes one or more types of medical marijuana facilities under the MMFLA:

- To provide for medical marijuana facilities in a city, village, or township with its own existing zoning ordinance:
 - Authorize one or more facility types by adopting a police power ordinance according to the statutory and local charter requirements for ordinance adoption applicable to that type of municipality, and
 - Adopt zoning ordinance amendments pursuant to the Michigan Zoning Enabling Act to regulate the location of the facilities and establish standards for approval.
- To provide for medical marijuana facilities in a township relying on county zoning:
 - 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; the county cannot.
 - Work with the county planning commission to place provisions in the county’s zoning ordinance regarding which zoning districts will 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.
- If this is being done in a municipality that relies on joint zoning, the municipality must authorize one or more facility types by adopting a police power ordinance according to the statutory and local charter requirements for ordinance adoption applicable to that type of municipality. Then the

municipality must work with the joint planning commission so the zoning provisions are placed in the joint zoning ordinance pursuant to the Michigan Zoning Enabling Act, Joint Municipal Planning Act, and the joint planning ordinance and agreement.

- 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.
- 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. (See *Forest Hill Energy-Fowler Farms, LLC v Twp of Bengal*).

For more information, please refer to Michigan State University Extension's *Land Use Series*: "Municipal Ordinance Authority Under Michigan's MMFLA," available at <http://msue.anr.msu.edu/mmfla>.

This document is written for use in Michigan and is based only on Michigan law and statute. One should not assume the concepts and rules for ordinance or other regulation by Michigan municipalities applies in other states. In most cases they do not.

If the ordinance is for a township: The ordinance needs to be adopted according to statute requirement for ordinance adoption by a township (MCL 41.181 *et seq.*).

If the ordinance is for a general law village: The ordinance needs to be adopted according to statute requirement for ordinance adoption by a general law village (MCL 67.1 *et seq.*).

If the ordinance is for a home rule village: The ordinance needs to be adopted according to both statute requirement for ordinance adoption by a home rule village (MCL 78.1 *et seq.*) and any further requirements found in the village charter.

If the ordinance is for a home rule city: The ordinance needs to be adopted according to statute requirement for ordinance adoption by a home rule city (MCL 117.3 *et seq.*) and any further requirements found in the city charter.

If the ordinance is for a county: Chances are the county does not have authority to adopt a police power ordinance. Enabling legislation for general ordinance powers by a county are very limited. See: http://msue.anr.msu.edu/news/county_government_powers_are_very_limited. For a county to be able to adopt an ordinance specific enabling legislation to do so must exist. A county planning commission can prepare sample or model ordinance language to present and/or recommend for adoption by each municipality in the county.

If the ordinance is for a Joint Planning Commission: A Joint Planning Commission does not have any police power ordinance adoption authority. Such ordinances must be adopted by each municipality participating in the joint planning commission. The joint planning commission can prepare sample or model ordinance language to present and/or recommend for adoption to each participating municipality.

There are many different ways for an ordinance to deal with the issues outlined here. The sample provided here is just one. It is written with the assumption that the municipality's attorney who is experienced in municipal law will review any proposed ordinance or amendments before they are adopted.

Please note that the following text includes various items in brackets that require insertions by the municipality. This sample is intended to be adopted with zoning ordinance amendments that regulate

the location of the facilities and establish standards for approval. (See Sample Zoning Ordinance Amendments following.) Please consult an attorney who is experienced in municipal law before adopting any local ordinance.

Following is a sample ordinance with commentary.

Sample Police Power Ordinance

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, 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 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

- A. For the purposes of this ordinance:
 1. Any term defined by the Michigan Medical Marijuana Act, MCL 333.26421 *et seq.*, shall have the definition given in the Michigan Medical Marijuana Act.
 2. Any term defined by the Medical Marijuana Facilities Licensing Act, MCL 333.27101 *et seq.*, shall have the definition given in the Medical Marijuana Facilities Licensing Act.
 3. Any term defined by the Marijuana Tracking Act, MCL 333.27901 *et seq.*, shall have the definition given in the Marijuana Tracking Act.
- B. Other defined words shall include:
 1. "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.
 2. "Licensee" means a person holding a state operating license issued under the Medical Marijuana Facilities Licensing Act, MCL 333.27101 *et seq.*
 3. "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 *et seq.*; 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.*

4. "Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marijuana 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 Marijuana Act, MCL 333.26421 et seq.
5. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
6. "Processor" means a licensee that is a commercial entity located in Michigan that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.
7. "Provisioning center" means a licensee that is a commercial entity located in Michigan that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marijuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marijuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this ordinance.
8. "Safety compliance facility" means a licensee that is a commercial entity that receives marijuana from a marijuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.
9. "Secure transporter" means a licensee that is a commercial entity located in this state that stores marijuana and transports marijuana between marijuana 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:
 1. Facility: [maximum number of facilities]
 2. Grower: [maximum number of facilities]
 3. Processor: [maximum number of facilities]
 4. Secure transporter: [maximum number of facilities]
 5. Provisioning Center: [maximum number of facilities]
 6. Safety compliance facility: [maximum number of facilities]

Commentary: A municipality may choose to authorize one or more facility types without authorizing all facility types. [End of commentary]

- B. At least every [number of] 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:]

Commentary: A municipality may want to specify certain items of the information required on the application. [End of commentary]

- 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.

Commentary: The police power and zoning ordinances could also be drafted to require the zoning approvals before any municipal licensing process. [End of commentary]

- 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.

Commentary: A municipality may specify other license conditions and provide for inspections to ensure compliance. [End of commentary]

- 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

- A. 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 \$____.____ [dollar amount] 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.

Zoning Ordinance Introduction

If zoning exists: If this is being done in a city, village, township, or county with its own existing zoning, then these provisions 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 Michigan State University Extension's *Land Use Series*: "Checklist # 4: For Adoption of a Zoning Ordinance Amendment (including some PUDs) in Michigan" at www.lu.msue.msu.edu.

Township with county zoning: If this is being done in a township that relies on county zoning, then the township must work with the county planning commission so these provisions are placed in the county's zoning ordinance pursuant to the Michigan Zoning Enabling Act. Checklist #4 is also applicable here.

Zoning done by a Joint Planning Commission: If this is being done in a municipality that relies on joint zoning, then the municipality must work with the joint planning commission so these provisions are placed in the joint zoning ordinance pursuant to the Michigan Zoning Enabling Act, Joint Municipal Planning Act, and the Joint Planning Ordinance and Agreement. Checklist #4 is also applicable here.

Zoning does not exist: If this is being done in a township, village or city where zoning does not exist, then it is not possible to adopt these regulations apart from the adoption of a complete zoning ordinance

establishing rules and creating the public offices and bodies necessary pursuant to the Michigan Zoning Enabling Act.

There are many different ways for a zoning ordinance to deal with the issues outlined here. The sample provided here is just one. It is 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 Michigan State University Extension's Land Use Series: "Organization and Codification of a Zoning Ordinance," available from lu.msue.msu.edu.
- The municipality's attorney who is experienced in municipal law (planning and zoning) will review any proposed amendments before they are adopted.

Please note that the following text includes various items in brackets that require insertions by the municipality. There are many ways other than those outlined in this sample zoning ordinance amendments to address zoning issues regarding medical marijuana facilities. Please consult an attorney who is experienced in municipal law before adopting any local ordinance.

Following is a sample zoning ordinance amendment with commentary.

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 marijuana for sale to a processor or provisioning center.

LICENSEE means a person holding a state operating license issued under the Medical Marijuana 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 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.*

MARIJUANA FACILITY means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marijuana 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 Marijuana 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.

Commentary: 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. [End of commentary]

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

Commentary: 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. [End of commentary]

- 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 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:

Commentary: 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. [End of commentary]

- 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.

Commentary: 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. [End of commentary]

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.

Commentary: Building, electrical, mechanical, and plumbing codes must be enforced by the local government jurisdiction. [End of commentary]

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 _____[article or ordinance containing the sign regulations].

Commentary: 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. [End of commentary]

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 ____ [number of] acres, except that if the majority of abutting properties are equal to or greater than ____ [lesser number of] acres, the subject property shall be a minimum of ____ [lesser number of] acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive or private or public road.
 - b. In the ____ [list the specific industrial district(s)], the subject property shall be a minimum of ____ [number of] acres, except that if outdoor production is proposed, the subject property shall be a minimum of ____ [greater number of] 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 ____ [for example 50] feet. The minimum front, rear, and side yard setbacks for outdoor production shall be a minimum of ____ [for example 100] feet from all lot lines. The minimum water front setback for any structure or outdoor production shall be a minimum of ____ [for example, recommended, 100+] feet from the ordinary high water mark.

Commentary: 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. [End of commentary]

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 ____ [number 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.

Commentary: To prevent inconsistencies, this standard may instead reference the municipality's existing outdoor lighting requirements and landscape standards that may also impact lighting. [End of commentary]

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

Commentary: 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. [End of commentary]

- 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.

Commentary: The municipality may want to reference its existing provisions for escrow fees related to the costs of outside experts. [End of commentary]

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 ____ [number of] 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 ____ [number of] feet of a religious institution or a residentially zoned property.

Commentary: The focus here is on buffers from uses associated with children. Buffers from other uses are typically smaller. Municipalities should determine whether enough suitable parcels remain available after eliminating those due to buffers.

The municipality will want to edit the list of terms, such as school, to use those already defined in the zoning ordinance. A buffer could instead be measured from the closest point of the building space occupied by the marijuana facility. The same or different buffers can also be established for other facility types. [End of commentary]

7. 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.

Commentary: The municipality may want to reference its existing provisions for escrow fees related to the costs of outside experts. [End of commentary]

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 ____ [terms for the equivalent of 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.

Commentary: The municipality will want to use the term for medical laboratory type uses already defined in the zoning ordinance. [End of commentary]

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.

Commentary: The municipality will want to use the term for transportation and warehousing type uses already defined in the zoning ordinance. [End of commentary]

Nonconformities

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

80XX. Marijuana Facility

- 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.

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