

February 26, 2019

Planning Commission
Northfield Township
8350 Main Street
Whitmore Lake, MI 48189

MEMORANDUM: Marihuana Zoning Regulations

Dear Commission Members,

Per your request, we have prepared the following Zoning Ordinance revisions to accommodate medical and recreational marihuana uses in the Township. These standards are provided for your consideration and comment. If Planning Commission finds these standards to reflect the preferences of recent discussions, a Public Hearing must be scheduled prior to making a recommendation and forwarding the standards to the Township Board for consideration and adoption.

Please refer to the supportive memorandums and packet material from Planning Commission meetings on December 19, 2018, January 2, 2019, and January 16, 2019. This memorandum has been updated per Planning Commission comments provided on February 6, 2019. Text that is struck through shall be deleted and text that is underlined shall be added.

A: RECOMMENDED REVISIONS TO ZONING ORDINANCE:

**ARTICLE II. - DEFINITIONS
SEC. 36-29. - DEFINITIONS.**

Marihuana Establishments and Facilities: The term Marihuana Facilities, shall encompass all use classes specifically defined and authorized by the State of Michigan Medical Marihuana Act, MCL333.26421, et seq; the Marihuana facilities Licensing Act, MCL 333.27101 et seq; and the Marihuana Tracking Act, MCL 333.27901 et seq; and Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq, and all other applicable rules promulgated by the state of Michigan as may be amended. Marihuana establishments and facilities include the following use classes:

- (1) Marihuana grower means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments. Growers shall be subdivided into six classes based on State licensing standards.
 - a. Medical Class A – 500 marihuana plants.
 - b. Medical Class B – 1,000 marihuana plants.
 - c. Medical Class C – 1,500 marihuana plants.
 - d. Recreational Class A – 100 marihuana plants.
 - e. Recreational Class B – 500 marihuana plants
 - f. Recreational Class C – 2,000 marihuana plants
- (2) Marihuana microbusiness means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21

years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

- (3) Marihuana processor means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (4) Marihuana retailer means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- (5) Marihuana secure transporter means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- (6) Marihuana safety compliance facility means a person licensed to test marihuana, including certification for potency and the presence of contaminants.
- (7) 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 through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.
- (8) Registered primary caregiver means a primary caregiver who has been issued a current registry identification card under the Michigan medical marihuana act

ARTICLE III. - GENERAL PROVISIONS

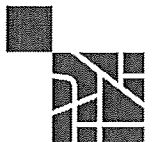
SEC. 36-64. - HOME OCCUPATION.

- (2) ~~Medical marihuana cultivation, use and distribution~~ Licensed Caregivers. In addition to the general standards as specified in subsection (a) of this section, medical marihuana, cultivation, use and distribution shall meet the following specific standards:
 - a. Conformance with section 36-729.
 - b. In recognition of the confidential nature of this use, a ~~medical marihuana cultivation, use and distribution~~ licensed caregiver shall ~~make submit a z~~submit a z~~Zoning e~~Compliance a~~Application pursuant to section 36-729(c) shall be required, rather than a standard to obtain a Zoning e~~Compliance e~~Certificate.~~

ARTICLE VI. - AR—AGRICULTURE DISTRICT

SEC. 36-157. - CONDITIONAL USES.

- (24) Marihuana Establishments and Facilities, subject to the standards of Section 36-761, including:
 - a. Growers, all licenses.
 - b. Microbusinesses, subject to the additional standards of Section 36-730.



**ARTICLE XII. - WLD—WHITMORE LAKE DISTRICT
SEC. 36-340. - USES PERMITTED.**

Permitted Uses

Uses which are permitted by right (P); uses subject to conditional use approval (C); not permitted uses (NP); or uses permitted on upper floors only (UP)

	WLD-D	WLD-W	WLD-NV
<u>Retail Marihuana and Provisioning Centers, subject to the standards of Section 36-761</u>	<u>C</u>	<u>C</u>	<u>C</u>

**ARTICLE XIII. - LC—LOCAL COMMERCIAL DISTRICT
SEC. 36-364. - CONDITIONAL USES.**

- 12) Marihuana Establishments and Facilities, subject to the standards of Section 36-761, including:
a. Retail Marihuana and Provisioning Centers

**ARTICLE XIV. - GC—GENERAL COMMERCIAL DISTRICT
SEC. 36-391. - CONDITIONAL USES.**

- 21) Marihuana Establishments and Facilities, subject to the standards of Section 36-761, including:
a. Retail Marihuana and Provisioning Centers
b. Secure Transporters
c. Safety Compliance Facilities

**ARTICLE XVIII. - LI—LIMITED INDUSTRIAL DISTRICT
SEC. 36-510. - CONDITIONAL USES.**

- 11) Marihuana Establishments and Facilities, subject to the standards of Section 36-761, including:
a. Growers, all licenses permitted.
b. Processors
c. Secure Transporters
d. Safety Compliance Facilities
e. Microbusinesses

**ARTICLE XIX. - GI—GENERAL INDUSTRIAL DISTRICT
SEC. 36-533. - CONDITIONAL USES.**

- 11) Marihuana Establishments and Facilities, subject to the standards of Section 36-761, including:
a. Growers, all licenses permitted.
b. Processors
c. Secure Transporters
d. Safety Compliance Facilities
e. Microbusinesses



ARTICLE XXII. - RTM—RESEARCH/TECHNOLOGY/MANUFACTURING DISTRICT
SEC. 36-638. - CONDITIONAL USES.

- 2) Marihuana Establishments and Facilities, subject to the standards of Section 36-761, including::
- a. Processors
 - b. Safety Compliance Facilities

ARTICLE XXIV. - SUPPLEMENTARY REGULATIONS AND STANDARDS

SEC. 36-729. - MEDICAL MARIHUANA CULTIVATION, USE AND DISTRIBUTION CAREGIVERS.

(a) **Intent.**

- (1) It is the intent of these regulations to allow medical marihuana ~~cultivation, use and distribution~~ caregivers, as defined by the Michigan Marihuana Act, as a home occupation pursuant to section 36-64, and further to protect the health, safety, and welfare of law enforcement officers and other persons in the community. These regulations are designed to allow the creation and maintenance of a private and confidential patient-caregiver relationship to facilitate the statutory authorization for the limited cultivation, distribution, and use of marihuana for medical purposes; and to regulate around this fundamental intent in a manner that does not conflict with the Act so as to address issues that would otherwise expose the community and its residents to significant adverse conditions and the uninspected installation of unlawful structural, electrical, plumbing and electrical facilities mechanical equipment that create dangerous health, safety, and fire conditions.
- (2) These regulations allow for activity based on the Act. Nothing in these regulations shall be construed to undermine or provide immunity from federal law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marihuana. ~~Thus, the authorization of activity, and the approval of this use, shall not have the effect of superseding or nullifying federal law applicable to the cultivation, use, and possession of marihuana, and all applicants are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.~~

- (b) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Act means Initiated Law 1 of 2008 (MCL 333.26421 et seq.), and Michigan Administrative Rules, R 333.101 et seq.

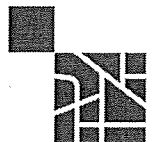
Department means the ~~s~~State ~~d~~Department of ~~e~~Community ~~h~~Health.

Distribution means the physical transfer of any amount of marihuana in any form by one person to any other persons, whether or not any consideration is paid or received.

Distributor means any person, including, but not limited to, a caregiver, patient or any other person, who engages in any one or more acts of distribution.

Facility or premises means one premises having a separate or independent postal address.

Marihuana means the substance or material defined in section 7106 of the public health code, Public Act No. 368 of 1976 (MCL 333.7106).



Primary caregiver or caregiver means a person as defined under MCL 333.26423(g) of the Act, and who has been issued and possesses a registry identification card under the Act.

Principal residence means the place where a person resides more than one-half of the calendar year.

Qualifying patient or patient means a person as defined under MCL 333.26423(h) of the Act.

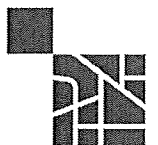
Registry identification card means the document defined under MCL 333.26423(i) of the Act.

(c) **Application requirements.**

- (1) In addition to the requirements for home occupation pursuant to section 36-64 - Home Occupation, a medical marihuana cultivation, use, and distribution caregiver shall submit a zoning compliance certification application must be submitted. The requirement of these regulations is to permit a location, and not to regulate persons. An application as supplied by the township shall describe each of the following and shall:
 - a. Not require the name, home address, or date of birth of a ~~patient or~~ caregiver.
 - b. Include the address and legal description of the precise premises, ~~other than a patient's principal residence~~, at which there shall be possession, cultivation, distribution or other assistance in the use of marihuana. The fact that a caregiver or other person providing assistance to patients also has an ID card as a patient shall not relieve the obligation to provide this information.
 - c. Specify the address of the place where all unused portions of marihuana plants cultivated in connection with the use of marihuana or caregiver activity at the premises shall be disposed.
 - d. Describe the enclosed, locked facility in which any and all cultivation of marihuana is proposed to occur, or where marihuana is stored, with such description including: location in building; precise measurements, in feet, of the floor dimensions and height; the security device for the facility.
 - e. Describe all locations in the premises where a caregiver or other person authorized under the Act shall render assistance to a qualifying patient.
 - f. Specify the number of patients to be assisted, including the number of patients for whom marihuana is proposed to be cultivated, and the number of patients to be otherwise assisted on the premises, and the maximum number of plants to be grown or cultivated at any one time. If the location at which patients will be assisted is different from the licensed premises, the application shall provide the address of all such other locations (other than the address of a patient being assisted). The maximum number of patients and plants is specified in subsection (c)(2)b of this section.
 - g. For safety and other code inspection purposes, it shall describe and provide detailed specifications of all lights, equipment, and all other electrical, plumbing, and other means proposed to be used to facilitate the cultivation of marihuana plants as such specifications relate to the need for the installation of facilities. As noted in subsection (c)(2)d of this section, all new construction including structural, electrical, and plumbing, and mechanical shall meet current state construction codes and shall be inspected for compliance require necessary permits and inspections.

The standards of approval as noted below will be used to review each application. An inspection will be made at each location noted in the application to verify the standards.

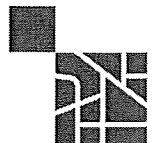
(2) **Requirements and standards for approval.**



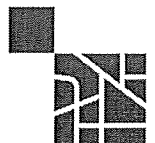
- a. Locations used for the cultivation and/or use of marihuana by caregivers and any other person permitted under the Act are pursuant to section 36-64 – Home Occupation. As a home occupation this use shall not be permitted under the following circumstances:
1. Within ~~4,000~~ 500 feet from sites where children are regularly present, and specifically a daycare facility, a church, synagogue, mosque, or other religious temple, and from a recreational park and a public community center, a public or private preschool, elementary school, middle school, high school, community college, and all other schools that have different name references but serve students of the same age.
 2. Within ~~4,000~~ 500 feet of an adult use, as defined in this chapter, if applicable (attach appendix if not stated or incorporated).
 3. Within ~~4,000~~ 500 feet from the site at which any other caregiver or any other person cultivates marihuana, or assists in the use of marihuana, not including a patient's principal residence which is not used to cultivate marihuana or assist in the use of medical marihuana for persons other than the patient at such residence.

Measurements for purposes of this subsection a. shall be made from property boundary to property boundary.

- b. The location of the facility at which a caregiver or any other person permitted under the Act cultivates marihuana, or assists a patient in the use of marihuana, shall not be the same facility at which any other caregiver or person cultivates marihuana or assists a patient in the use of marihuana. Accordingly, at a patient's principal residence used by such patient to cultivate marihuana for his personal use as permitted under the Act, there shall be not more than 12 marihuana plants being cultivated at any one time; only at a licensed facility may there be more than 12 marihuana plants being cultivated at any one time; and, at a facility at which a caregiver or any other person permitted under the Act cultivates marihuana for use by patients, there shall not be more than 12 marihuana plants being cultivated at any one time per patient, and in no event more than 60 marihuana plants being cultivated at any one time (which assumes cultivation for five patients), plus an additional 12 plants if the caregiver is also a patient that has not designated a caregiver to assist in providing medical marihuana.
- c. In order to insulate children and other vulnerable individuals from such actions, all medical marihuana cultivation, and all assistance of a patient in the use of medical marihuana by a caregiver, shall occur within the confines of a building licensed under this section, and such activities shall occur only in locations not visible to the public. This subsection shall not prohibit a caregiver from assisting a patient at the patient's principal residence or at a hospital.
- d. All lights, plumbing, equipment, and all other means proposed to be used to facilitate the growth or cultivation of marihuana plants shall be in accordance with all applicable state construction codes.
- e. Considering that the distribution of marihuana is generally unlawful, and that the Act authorizes caregivers, and does not authorize any activity such as a dispensary (authorized by statutes in other states), and reading the Act as a whole, the activities of caregivers are interpreted as being limited to private and confidential endeavors. Moreover, the location and identity of a caregiver is known to patients. Accordingly:
1. Signage shall be in accordance with the township home occupation standards found in section 36-64(1)i.

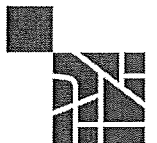


2. Unless conducted as part of a related licensed professional medical or pharmaceutical practice, caregiver activity shall not be advertised as a clinic, hospital, dispensary, or other name customary ascribed to a multi-patient professional practice.
- (3) **Use of land in accordance with approved application.** If approved, all use of property shall be in accordance with an approved application, including all information and specifications submitted by the applicant in reliance on which the application shall be deemed to have been approved.
- (d) **Restriction on distribution.**
- (1) The restrictions in this section are based on the following findings:
- It is reasonable to expect and require that all undertakings of caregivers and other persons in assisting a patient are intended to occur on a confidential and private one-to-one basis.
 - The Act does not reflect the intent for distributions of marihuana by more than one caregiver or other person to one patient, or by one or more caregivers or other persons to more than one patient at any given time and place.
 - The confidentiality provisions of the Act reflect the intent for all caregivers and patients to remain anonymous in terms of their name and address, thus further reflecting the private and confidential nature of the activities contemplated between a caregiver and the patient he is assisting.
- (2) **Restrictions.**
- A caregiver and any other person authorized under the Act to assist patients, if any, shall distribute medical marihuana only on a confidential, one-to-one basis with no other caregiver being present at the same facility at the same time, and no other patient or other person being present at the same facility at the same time; provided that a patient's immediate family members or guardian may be present within the patient's private residence, and one family member or guardian may be present in any facility other than the patient's private residence. For purposes of this subsection, the term "same time" shall mean and include concurrently as well as within a time interval of one hour.
 - Considering the health issues presented, no food shall be sold from the facility used for the distribution of medical marihuana.
- (e) **Inspection of patient cultivation.** Upon the request of a patient who is cultivating medical marihuana, the ~~medical marihuana officer~~ Public Safety Director of the community shall confidentially coordinate ~~electrical and plumbing~~ any inspectors (and other inspectors within whose expertise an inspection is needed) with regard to the siting of such cultivation for the purpose of determining whether ~~all lights-structural, electrical, plumbing, equipment, and all other or mechanical~~ means used to facilitate the cultivation of marihuana plants is in accordance with applicable code. In carrying out the provisions of this subsection, community officials shall not require the name and address of the patient. Rather, the intent of this subsection is to focus on the premises, and to ensure ~~fire, electrical, plumbing, and other~~ safety for the benefit of the resident of the premises and others who may be affected by one or more code violations.
- (f) **Penalty for violation.**
- ~~Civil infraction, with penalty of \$1,000.00 (or the maximum permitted by law if less than \$1,000.00 for each violation).~~
 - ~~In the event of two or more violations, increased civil penalty (if permitted by law), and grounds for revocation, following hearing.~~

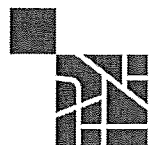


ARTICLE XXIV. - SUPPLEMENTARY REGULATIONS AND STANDARDS
SEC. 36-761. – STANDARDS FOR MARIHUANA ESTABLISHMENTS AND FACILITIES

1. These standards shall apply to all marihuana establishments and facilities, unless otherwise noted, and excepting caregivers, which are regulated by Sec. 36-729. - Medical marihuana caregivers and Sec. 36-64. - Home Occupation.
2. Marihuana related activities shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, Marihuana facilities Licensing Act, the Marihuana Tracking Act, the Michigan Regulation and Taxation of Marihuana Act and all State of Michigan regulations for the transfer of marihuana, and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
3. All marihuana establishments and facilities shall submit a Zoning Compliance Application, shall obtain structural, electrical, plumbing, and mechanical permits and inspections to meet current state construction codes, and shall obtain a Certificate of Occupancy prior to any operation or occupancy of said establishment or facility.
4. Site plan approval and conditional use approval shall be required for all marihuana establishments and facilities.
5. The applicant location shall meet all applicable written and duly promulgated standards of the Township and, prior to opening, shall demonstrate to the Township that it meets the rules and regulations promulgated by the Medical/Recreational Marihuana Licensing Board and obtain a Certificate of Occupancy.
6. The establishment or facility location shall conform to all standards of the zoning district in which it is located.
7. Establishments and facilities are not permitted within a 500-foot radius of any primary, intermediate or secondary school, measured by the shortest possible line from the property edges.
8. The minimum distance from other marihuana facilities and establishments is 500 feet. This standard shall not apply in the WLD-NV, WLD-DD, and WLD-LF districts. Colocation of use classes on one site is permitted when consistent with State standards and permitted in the zoning district.
9. In the AR district, the minimum lot size for Medical Class B, Recreational Class B, Medical Class C, and Recreational Class C growers shall be 10 acres. In the AR district the minimum lot size for Medical Class A, and Recreational Class A growers shall be 5 acres.
10. Hours of operation permitted for retail, provisioning centers, and microbusinesses: Monday – Saturday: 9:00 a.m. – 9:00 p.m.; Sunday: 10:00 a.m. – 6:00 p.m.
11. All activity related to the marihuana establishment or facility shall be done indoors.
12. All establishments and facilities must ensure that any water emanating from the establishment or facility meets or exceeds all applicable state and local environmental standards.
 - a. No required water supply and sanitary sewerage facilities shall be erected, altered, or moved upon a lot or premises and used in whole or in part for a marihuana facility unless it shall be provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment, and disposal of human excreta and domestic, commercial, and industrial waste. All such installations and facilities shall conform to the minimum requirements Washtenaw County, and any applicable statutes, ordinances, or regulations.
13. Security cameras shall be installed and maintained. All security cameras shall have at least 120 concurrent hours of digitally recorded documentation. The security cameras shall be in operation 24 hours a day, seven days a week, and shall be set to maintain the record of the prior 120 hours of continuous operation. An alarm system is required that is operated and monitored by a recognized security company. A security plan shall be provided and approved by the Public Safety Director.



14. Exterior lighting shall be required for security purposes, but in accordance with the provisions of the Zoning Ordinance.
15. Marihuana establishments and facilities are not permitted to operate in a manner that results in adverse impacts on adjacent property; including excessive odor, traffic, noise, or loitering. The Township may place reasonable conditions on facilities to ensure operation consistent with community norms. Failure to comply with Township regulations or conditions of approval shall be cause to revoke a local license. Odor for growers and processors shall be regulated as follows:
 - 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 township accepts a report by a mechanical engineer licensed by the state of Michigan demonstrating the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The Township may hire an outside expert, at the cost of the applicant, to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
 - g. Secure transporters and safety compliance facilities shall also be required to submit plans for odor control for approval if in the opinion the planning commission such plans are required for the protection of the township and its residents.
16. If the marihuana establishment or facility ceases operation for a length of time of ninety days or greater, the conditional use shall expire.
17. Marihuana drive-through retail establishments and provisioning centers shall be prohibited.
18. All marihuana shall be contained within a structure that meets all applicable building code requirements in an enclosed, locked area. A floor plan shall be provided with the site plan application.
19. Application for a local Marihuana Facilities License shall be made to the Township Clerk upon application forms provided by the Clerk for Marihuana Facilities License and signed by the applicant verifying the truth and accuracy of all information and representations in the application. Applications including information and documentation provided pursuant to an application shall be subject to the confidentiality rules of the State of Michigan. In addition to information and submittals, the application shall include payment of application fee in an amount set by the Township Board. Applications shall be filed according to licensing regulations, procedures, and fees established by the Township Board, and may be amended.
20. A State license is required for all Marihuana Establishments and Facilities.
21. Prior to issuance of a certificate of occupancy for an authorized Marihuana Establishment or Facility shall comply with the following regulations and shall only be operated as long as it remains in compliance with all such ordinances.



- a. Compliance with State and Township licensing requirements and proof of issuance of a State operating license and compliance with all rules promulgated there under is filed with the Township.
 - b. Compliance with all Township Zoning regulations with written approval of Zoning Compliance issued by the Township Zoning Administrator.
 - c. Compliance with all Township construction and building ordinances and applicable police power ordinances.
22. Inspections may be made by the Township Official's designee to confirm the Marihuana Establishment or Facility is operating in accordance with applicable laws including, but not limited to, State Law and Township Ordinances.
23. The premises shall be open for inspection upon request by the Zoning Administrator, Code Enforcement Officer, Building Official, Fire Department and law enforcement officials for compliance with all applicable laws and rules, during the stated hours of operation/use and as such other times as anyone is present on the premises.
24. The penalties and fees collected by the Township for Marihuana Establishments and Facilities shall be the maximum permissible by the State of Michigan unless otherwise established by the Township Board.

