

Au Gres Township

Zoning Ordinance Amendments for Medical Marijuana – Adopted September 20, 2017

Amendments will be effective Thursday, October 5, 2017

Chapter 2 Definition Additions

- A. **"Affiliate"** means any person that controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership with a licensee or applicant.

"Commercial Marijuana Facility", "Marihuana Facility" or "Facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, 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.

"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 under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

"Marihuana" or "Marijuana" means that the term as defined in the Public Health Code. MCL 333.1101 et seq.; the 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. For the purpose of this ordinance, the spellings are interchangeable.

"Marihuana plant" means any plant of the species *Cannabis sativa* L.

"Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

"Michigan medical marihuana act" means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

"Paraphernalia" means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

"Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, other legal entity or any joint venture for a common purpose.

"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 through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act, 333.26421 et, seq., is not a provisioning center for purposes of this act.

"Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act, MCL 333.26423.

"Registered qualifying patient" means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

"Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

"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.

"State operating license" or, unless the context requires a different meaning, **"license"** means a license that is issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

Chapter 5 - Zoning Districts Add the following uses:

1. Agricultural/Rural Residential (AR) District:

Special Uses

- Medical marijuana grower
- Medical marijuana processor
- Medical marijuana secure transporter
- Medical marijuana safety compliance facility

2. Commercial:

Section 5.9 – Commercial District (C)

The purpose and intent of this district is to provide locations for common commercial uses in the Township, as well as light industrial uses when permitted as a Special Use. Permitted uses will serve Township residents and regional residents as well as visitors to the area. All proposed uses are required to submit a Development Site Plan in accordance with Chapter 9 of this Ordinance.

Special Uses

- Medical marijuana grower
- Medical marijuana provisioning center
- Medical marijuana processor
- Medical marijuana secure transporter
- Medical marijuana safety compliance facility

3. Industrial (I) District

Special Uses

- Medical marijuana grower
- Medical marijuana provisioning center
- Medical marijuana processor
- Medical marijuana secure transporter
- Medical marijuana safety compliance facility

Chapter 8 – Special Land Use Permit Standards

SPECIAL LAND USE PERMIT STANDARDS

- 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 land use permit pursuant to Section 8 of the Au Gres Township Zoning Ordinance, in the specified zones, 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 Au Gres Township. In the event that a court with jurisdiction declares some or all of this article invalid, then Au Gres Township shall suspend the acceptance of applications for special land use permits pending the resolutions of the legal issue in question.
 2. At the time of application for the special land use permit, the marijuana facility must be in the licensing process with 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 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 land use permit (SLUP), the marijuana facility must have the Au Gres Township permit application concurrently in process with the special land use permit and site plan approval, and then must be at all times in compliance with the Zoning ordinance of Au Gres Township.
 4. A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may NOT be permitted as a home occupation or accessory use nor may they include accessory uses, except as otherwise provided in this ordinance.
 5. Signage requirement for marijuana facilities, unless otherwise specified, are as provided in Section 7 of the Au Gres Township Zoning Ordinance.
 6. Security – Medical Marijuana permit holders shall at all times maintain a security system that meets State Law requirements, and shall also include the following.
 - a) Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Facility;
 - b) Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;
 - c) A locking safe permanently affixed to the permitted premises that shall store all cash remaining in the Facility when it is not open;
 - d) For usable marijuana - dedicated, separate, locked storage that is hidden from view when the facility is not open
 - e) All marijuana in whatever form stored at the facility shall be kept in a secure manner and shall not be visible from outside the facility, nor shall it be grown, processed, exchanged, transferred, displayed or dispensed outside the facility;
 - f) All security recordings and documentation shall be preserved for at least 48 hours by the permit holder and made available to any law enforcement upon request for inspection.
- B. Marijuana growers shall be subject to the following standards:
1. Indoor grow facilities
 - a) Lighting. 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) Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana growing.
 - 1) 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.
 - 2) 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.
 - 3) Negative air pressure shall be maintained inside the building.
 - 4) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - 5) 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.

2. Outdoor grow facilities
 - a) Must be surrounded by an opaque fence at least 8' in height
 - b) Shall not be artificially lit, except as required for parking
 - c) The grower should take provisions to minimize detectable odors on neighboring properties.
- C. Marijuana processors shall be subject to the following standards
 1. Marijuana processing shall be located entirely within one or more completely enclosed buildings.
 2. Lighting. 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.
 3. Odor. As used in this subsection, building means the building, or portion thereof, used for 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 be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - c) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
- D. 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. Marijuana Provisioning Centers shall be subject to the following standards:
 1. Hours of Operation - 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 8:00 a.m. and 8:00 p.m. if so required by the State of Michigan.
 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
 3. Other Activities - Marijuana, alcohol or tobacco products shall not be smoked, ingested, or otherwise be consumed in the building space occupied by the provisioning center.
 4. 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. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
 5. Buffer Zones - A provisioning center shall not be located within 1,000 feet of the real property comprising or used by an educational institution or school, college or university,

church, house of worship or other religious facility, licensed child care center or preschool, public library, or public or private park with the minimum distances between uses measured horizontally between the nearest property lines.

7. Odor - As used in this subsection, building means the building, or portion thereof, used for marijuana 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 be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - c) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - d) 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.
- E. Marijuana Safety Compliance Facilities shall be subject to the following standards:
 1. All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.
 2. Odor - As used in this subsection, building means the building, or portion thereof, used for marijuana safety compliance facilities.
 - 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 be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - c) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - d) 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.
- F. Marijuana Secure Transport Facilities shall be subject to the following standards:
 1. No vehicle may be used for the ongoing or continuous storage of marijuana, but may only be used incidental to, and in furtherance of, the transportation of marijuana.
 2. Vehicles used for the transport of marijuana must be stored indoors when not in use.

- G. Additional Conditions. The Au Gres Township Planning Commission may impose such reasonable terms and conditions on a Commercial Marijuana Facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this ordinance and applicable laws.

SPECIAL LAND USE PERMIT REQUIREMENTS

- A. In addition to the items to be provided for a Special Use Permit according to Section 8.5, the applicant shall also provide a business operations plan that includes the following:
1. A description of the type of facility proposed and the anticipated or actual number of employees.
 2. A security plan meeting the requirements of this ordinance and the State of Michigan.
 3. A description by category of all products to be sold.
 4. Material Safety Data Sheets for all nutrients, pesticides and other chemicals to be used in the facility.
 5. A description and plan of all equipment and methods that will be employed to minimize any impact to adjacent uses, including but not limited to odor.
 6. A plan for disposal of marijuana and related byproducts that will be used at the proposed facility.