

Charter Township of Alpena  
Ordinance No. \_\_\_\_\_

An ordinance to amend the Charter Township of Alpena Zoning Ordinance Section 201 (Definitions), Section 416 (Full Table of Permitted & Special Land Uses), Section 404 (Forest Recreation District), Section 405 (Agricultural District), ~~Section 409 (Mixed Residential District)~~, Section 411 (B-1: Restricted Business District), Section 412 (B-2: General Business District), Section 413 (B-3: Community Business District), Section 414 (M-1: Light Manufacturing District), Section 415 (M-2: Mixed Manufacturing District), and Article 7 (Supplemental Regulations) to allow Medical Marihuana Facilities and Adult Use Marihuana Establishments.

Charter Township of Alpena, Alpena County, Michigan ordains:

*PROPOSED NEW TEXT IN RED*

**Section 1: Amendment to the Charter Township of Alpena Zoning Ordinance**

*That the Charter Township of Alpena Zoning Ordinance, Section 201 (Definitions) is hereby amended to read as follows:*

~~**Medical Marihuana Definitions:**~~ *In addition to the following definitions are related to medical marihuana, the Township adopts all definitions contained in any of the State rules, regulations, statutes, and administrative code enacted for the purpose of regulating medical marihuana facilities and adult use marihuana establishments.*

- A. **Enclosed, Locked Facility.** That term as defined in Section 3 of **Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act, being MCL 333.26423).**
- B. **Adult-Use Marihuana Establishment.** An enterprise at a specific location at which a licensee is licensed to operate under **Initiated Law 1 of 2018, Medical Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.;** including a marihuana grower, marihuana microbusiness, marihuana processor, marihuana retailer, marihuana secure transporter, or marihuana safety compliance facility.
1. **Marihuana Grower.** A person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
    - a. **Class A Grower** – maximum of one hundred (100) marihuana plants as defined in the MRTMA.
    - b. **Class B Grower** – maximum of five hundred (500) marihuana plants as defined in the MRTMA.
    - c. **Class C Grower** – maximum of two thousand (2,000) marihuana plants as defined in the MRTMA.
  2. **Marihuana Microbusiness.** A person licensed to cultivate not more than one hundred fifty (150) marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are twenty-one (21) years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

3. ***Marihuana Processor.*** 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.*** A person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are twenty-one (21) years of age or older.
  5. ***Marihuana Secure Transporter.*** A person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
  6. ***Marihuana Safety Compliance Facility.*** A person licensed to test marihuana, including certification for potency and the presence of contaminants.
- C. ***Medical Marihuana Facility.*** An enterprise at a specific location at which a licensee is licensed to operate under **2016 PA 281, Medical Marihuana Facilities Licensing Act**, MCL 333.27101 et seq.; including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana 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.
1. ***Marihuana Grower.*** 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.
    - a. ***Class A Grower*** – maximum of five hundred (500) marihuana plants as defined in the MMFLA.
    - b. ***Class B Grower*** – maximum of one thousand (1,000) marihuana plants as defined in the MMFLA.
    - c. ***Class C Grower*** – maximum of fifteen hundred (1,500) marihuana plants as defined in the MMFLA.
  2. ***Marihuana Processor.*** 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.
  3. ***Marihuana Provisioning Center.*** 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.
  4. ***Marihuana Safety Compliance Facility.*** 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.

5. **Marihuana Secure Transporter.** A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

D. **Medical Marihuana.** 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.; the **Marihuana Tracking Act**, MCL 333.27901 et seq.; and the **Michigan Regulation and Taxation of Marihuana Act**, MCL 333.27951 et seq.

E. **Person.** An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

F. **Primary Caregiver.** That term defined in Section 3 of **Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act, being MCL 333.26423)** who is at least 21 years old and who has been registered by **State Department of Licensing and Regulatory Affairs** or any successor agency to assist with a Qualifying Patients’ use of medical marihuana.

G. **Primary Caregiver Facility.** A building in which the activities of a Primary Caregiver are conducted.

H. **Qualifying Patient.** That term defined in Section 3 of **Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act, being MCL 333.26423)** who has been diagnosed by a physician as having a debilitating medical condition as provided by the **Michigan Medical Marihuana Act** and who has obtained a duly issued registry identification card from the **State Department of Licensing and Regulatory Affairs** or any successor agency.

**That the Charter Township of Alpena Zoning Ordinance, Section 416 (Full Table of Permitted & Special Land Uses) is hereby amended to read as follows: *Planning Commission has recommended removing R-3 from this amendment.***

<b>Table of Permitted Uses &amp; Special Land Uses</b> *supplemental development regulations													
<b>P = Permitted by right S = Permitted with a Special Use Permit</b>	WR	R-1	R-2	R-3	OS	B-1	B-2	B-3	A	FR	C	M-1	M-2
<b>Commercial, Services &amp; Retail</b>													
<i>Marihuana Growers (Class A, Class B, or Class C)</i>							S*	S*	S*	S*		S*	S*
<i>Marihuana Microbusinesses</i>				S*		S*	S*	S*	S*	S*		S*	S*
<i>Provisioning Centers or Marihuana Retailers</i>						S*	S*	S*				S*	S*
<i>Marihuana Processors</i>							S*	S*				S*	S*
<i>Marihuana Safety Compliance Facilities</i>						S*	S*	S*				S*	S*
<i>Marihuana Secure Transporters</i>						S*	S*	S*				S*	S*

**That the Charter Township of Alpena Zoning Ordinance, Section 404 (Forest Recreation District) is hereby amended to read as follows:**

B. Uses Allowed (add the following)

<b>TABLE OF PERMITTED USES &amp; SPECIAL LAND USES</b>	
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit *supplemental development regulations	<b>FR</b>
<b>Commercial, Services &amp; Retail</b>	
<i>Marihuana Growers (Class A, Class B, or Class C)</i>	<b>S*</b>
<i>Marihuana Microbusinesses</i>	<b>S*</b>

**That the Charter Township of Alpena Zoning Ordinance, Section 405 (Agricultural District) is hereby amended to read as follows:**

B. Uses Allowed (add the following)

<b>TABLE OF PERMITTED USES &amp; SPECIAL LAND USES</b>	
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit *supplemental development regulations	<b>A</b>
<b>Commercial, Services &amp; Retail</b>	
<i>Marihuana Growers (Class A, Class B, or Class C)</i>	<b>S*</b>
<i>Marihuana Microbusinesses</i>	<b>S*</b>

**That the Charter Township of Alpena Zoning Ordinance, Section 409 (Mixed Residential District) is hereby amended to read as follows: *Planning Commission has recommended removing R-3 from this amendment.***

B. Uses Allowed (add the following)

<b>TABLE OF PERMITTED USES &amp; SPECIAL LAND USES</b>	
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit *supplemental development regulations	<b>R-3</b>
<b>Commercial, Services &amp; Retail</b>	
<i>Marihuana Microbusinesses</i>	<b>S*</b>

**That the Charter Township of Alpena Zoning Ordinance, Section 411 (B-1: Restricted Business District) is hereby amended to read as follows:**

B. Uses Allowed (add the following)

<b>TABLE OF PERMITTED USES &amp; SPECIAL LAND USES</b>	
<i>P</i> = Permitted by right <i>S</i> = Permitted with a Special Use Permit *supplemental development regulations	<b>B-1</b>
<b>Commercial, Services &amp; Retail</b>	
<i>Marihuana Microbusinesses</i>	<b>S*</b>
<i>Provisioning Centers or Marihuana Retailers</i>	<b>S*</b>
<i>Marihuana Safety Compliance Facilities</i>	<b>S*</b>
<i>Marihuana Secure Transporters</i>	<b>S*</b>

**That the Charter Township of Alpena Zoning Ordinance, Section 412 (B-2: General Business District) is hereby amended to read as follows:**

B. Uses Allowed (add the following)

<b>TABLE OF PERMITTED USES &amp; SPECIAL LAND USES</b>	
<i>P</i> = Permitted by right <i>S</i> = Permitted with a Special Use Permit *supplemental development regulations	<b>B-2</b>
<b>Commercial, Services &amp; Retail</b>	
<i>Marihuana Growers (Class A, Class B, or Class C)</i>	<b>S*</b>
<i>Marihuana Microbusinesses</i>	<b>S*</b>
<i>Provisioning Centers or Marihuana Retailers</i>	<b>S*</b>
<i>Marihuana Processors</i>	<b>S*</b>
<i>Marihuana Safety Compliance Facilities</i>	<b>S*</b>
<i>Marihuana Secure Transporters</i>	<b>S*</b>

**That the Charter Township of Alpena Zoning Ordinance, Section 413 (B-3: Community Business District) is hereby amended to read as follows:**

B. Uses Allowed (add the following)

<b>TABLE OF PERMITTED USES &amp; SPECIAL LAND USES</b>	
<i>P</i> = Permitted by right <i>S</i> = Permitted with a Special Use Permit *supplemental development regulations	<b>B-3</b>
<b>Commercial, Services &amp; Retail</b>	
<i>Marihuana Growers (Class A, Class B, or Class C)</i>	<b>S*</b>
<i>Marihuana Microbusinesses</i>	<b>S*</b>
<i>Provisioning Centers or Marihuana Retailers</i>	<b>S*</b>
<i>Marihuana Processors</i>	<b>S*</b>
<i>Marihuana Safety Compliance Facilities</i>	<b>S*</b>
<i>Marihuana Secure Transporters</i>	<b>S*</b>

**That the Charter Township of Alpena Zoning Ordinance, Section 414 (M-1: Light Manufacturing District) is hereby amended to read as follows:**

B. Uses Allowed (add the following)

<b>TABLE OF PERMITTED USES &amp; SPECIAL LAND USES</b>	
<i>P</i> = Permitted by right <i>S</i> = Permitted with a Special Use Permit *supplemental development regulations	<b>M-1</b>
<b>Commercial, Services &amp; Retail</b>	
<i>Marihuana Growers (Class A, Class B, or Class C)</i>	<b>S*</b>
<i>Marihuana Microbusinesses</i>	<b>S*</b>
<i>Provisioning Centers or Marihuana Retailers</i>	<b>S*</b>
<i>Marihuana Processors</i>	<b>S*</b>
<i>Marihuana Safety Compliance Facilities</i>	<b>S*</b>
<i>Marihuana Secure Transporters</i>	<b>S*</b>

**That the Charter Township of Alpena Zoning Ordinance, Section 415 (M-2: Mixed Manufacturing District) is hereby amended to read as follows:**

B. Uses Allowed (add the following)

<b>TABLE OF PERMITTED USES &amp; SPECIAL LAND USES</b>	
<i>P</i> = Permitted by right <i>S</i> = Permitted with a Special Use Permit *supplemental development regulations	<b>M-2</b>
<b>Commercial, Services &amp; Retail</b>	
<i>Marihuana Growers (Class A, Class B, or Class C)</i>	<b>S*</b>
<i>Marihuana Microbusinesses</i>	<b>S*</b>
<i>Provisioning Centers or Marihuana Retailers</i>	<b>S*</b>
<i>Marihuana Processors</i>	<b>S*</b>
<i>Marihuana Safety Compliance Facilities</i>	<b>S*</b>
<i>Marihuana Secure Transporters</i>	<b>S*</b>

**That the Charter Township of Alpena Zoning Ordinance, Section 743 (Medical Marihuana Facilities and Adult-Use Marihuana Establishments) is hereby added to read as follows:**

**A. General Standards and Submission Requirements.**

1. Medical marihuana facilities and adult use marihuana establishments shall remain in compliance with the State of Michigan licensing requirements.
2. Medical marihuana facilities and adult use marihuana establishments shall receive a license from the Charter Township of Alpena prior to operating and shall continue to comply with the Charter Township of Alpena Medical Marihuana Facilities and Adult Use Marihuana Establishments Licensing Ordinance No. \_\_\_\_\_.
3. **Types of Medical Marihuana Facilities and Adult-Use Marihuana Establishments Allowed.** In the event that new types of marihuana licenses become legal in the State of Michigan

that are not listed as either permitted or special land uses in the Charter Township of Alpena Zoning Ordinance (Article 4), the new types of licenses shall only be allowable in the Charter Township of Alpena upon amendment of this Ordinance and the Charter Township of Alpena Medical Marihuana Facilities and Adult Use Marihuana Establishments Licensing Ordinance No. xxx to include those new types of allowable licenses as either permitted or special land uses.

4. The following shall be submitted in conjunction with the licensing application:

a. **Site Plan.** Site Plan pursuant to **Article 5** and **Article 6**.

(1) Site Plan should show public, private, and secured areas.

(2) For growers, the site plan must also show secured areas and any type of outdoor storage.

b. **Proof of Ownership or Authorization.** Proof of ownership or authorization to use the property for a medical marihuana facility or adult use marihuana establishment shall be provided. If the applicant is not the owner of the proposed licensed premises, one of the following shall be provided:

(1) A notarized statement from the owner of such property authorizing the use of the property for a medical marihuana facility or adult use marihuana establishment.

(2) A copy of any lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises.

c. **Proof of Prequalification.** Proof of prequalification by the State of Michigan for a medical marihuana facility or adult use marihuana establishment state license including a copy of the application form submitted to LARA for prequalification (attachments are not required).

**B. Standards.**

1. **Location.** Each medical marihuana facility or adult use marihuana establishment shall be operated only from the premises approved on the site plan. No medical marihuana facility or adult use marihuana establishment shall be permitted to operate from a movable, mobile, or transitory location, except for a permitted and licensed marihuana secure transporter when engaged in the lawful transport of marihuana.

2. **Co-Location.** A marihuana grower, marihuana processor, and a marihuana retailer may operate from within a single facility operating pursuant to the **Medical Regulation and Taxation of Marihuana Act** and may operate from a location shared with a marihuana facility(s) operating pursuant to the **Medical Marihuana Facilities Licensing Act** and the rules of the State. Co-location may only occur if all uses are allowed in the zoning district in which the property is located.

3. **Exterior signage.** Medical marihuana facilities and adult use marihuana establishments may only use exterior signage that is in compliance with **Section 330**. Facilities may not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects.

4. **Hours of Operation.** Provisioning centers, retailers, and microbusinesses may only operate between the hours of 8:00 a.m. and 9:00 p.m.
5. **Indoor Operations/No Drive-Thru Service.**
  - a. All business operations of a medical marihuana facility or adult use marihuana establishment shall occur indoors.
  - b. Medical marihuana facilities and adult use marihuana establishments may not provide drive-thru service but may provide curbside pick-up.
6. **Outdoor Growing at Medical Marihuana Facilities or Adult-Use Marihuana Establishments.** The growth and cultivation of marihuana outdoors is not permitted.
7. **Consumption on Premises.** The sale, consumption, or use of alcohol or tobacco products on the premises of the medical marihuana facility or adult use marihuana establishment is prohibited. Smoking or consumption of controlled substances, including marihuana, on the premises of the medical marihuana facility or adult use marihuana establishment is prohibited.
8. **Impact on Adjacent Uses/Odors.** Facilities and establishments shall not emit noxious odors or fumes and shall comply with **Section 313 Performance Standards**. The establishment operation and design shall minimize any impact to adjacent uses including the control of any odor by maintaining and operating an air filtration system so that no abatable nuisance odor is detectable at the property line of the permitted premises.
9. **Artificial lighting.** Any artificial grow lighting shall not be visible from neighboring properties, streets, or rights-of-way.
10. **Display of permit.** The license issued by the Township and state shall be prominently displayed within the medical marihuana facility or adult use marihuana establishment in a location where it can be easily viewed by the public.
11. **Systems.** All medical marihuana facilities or adult use marihuana establishments shall have electrical, fire safety, plumbing, filtration, and waste disposal systems which are appropriate and consistent with best industry practices for the business being conducted.

*After public input, Planning Commission has recommended changing distance to 750 feet:*

12. **Separation Distances.** Marihuana facilities or adult use marihuana establishments shall not be located within ~~five hundred (500)~~ seven hundred fifty (750) feet of any building used for education, child care, or addiction treatment purposes or a park (herein referred to as “eligible buildings”). This measurement shall be the distance from any building in which the facility or establishment is operating and an eligible building on another lot except for a park for which the measurement shall be to any lot line of the park. These required separation distances cannot be waived except as allowed below:
  - a. The application shall provide evidence that all eligible buildings within the separation distance area have been notified by the applicant of the intent to seek a waiver from the separation



distance requirements. Failure to satisfy this requirement may be grounds to deny a proposed separation distance waiver.

- b. If an objection is not filed by the owners or tenants of an eligible building, the Planning Commission may waive the required separation distance, at the public hearing, in accordance with the standards provided in subsection (c).
- c. The Planning Commission may grant a reduction in the separation distances upon finding that granting the reduced separation distance:
  - (1) will not cause a substantially adverse effect on neighboring properties and will not produce nuisance conditions to occupants of nearby properties or impair quality of life.
  - (2) will not otherwise impair the public health, safety, and general welfare of the residents.
  - (3) will not damage the neighborhood character.
- d. Prior to granting the waiver, signed statements shall be required from each impacted property owner (whose property contains an eligible building within five hundred (500) feet of the proposed facility) which indicate that each owner of the property is aware of and in agreement with the waiver. All owners of a parcel listed in the county tax records shall sign the statement if they agree to the waiver.

**Section 2: Severability**

If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

**Section 3: Saving Clause**

The Charter Township of Alpena Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The amendments provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

**Section 4: Effective Date**

The ordinance changes shall take effect upon the expiration of seven (7) days after the publication of the notice of adoption.

\_\_\_\_\_ Charter Township of Alpena Supervisor      \_\_\_\_\_ Charter Township of Alpena Clerk

I, \_\_\_\_\_, Clerk for the Charter Township of Alpena, hereby certify that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_ of Charter Township of Alpena, adopted by at a meeting of the Township Board of Trustees held on \_\_\_\_\_.

A copy of the complete ordinance text may be inspected or purchased at the Charter Township of Alpena Offices, at 4385 US 23 North, Alpena MI 49707.

DRAFT 2-15-22

Adopted: \_\_\_\_\_ Published: \_\_\_\_\_ Effective: \_\_\_\_\_, subject to PA 110 of 2006 as amended.