

AN ORDINANCE UNDER THE AUTHORITY OF THE MEDICAL MARIHUANA FACILITIES LICENSING ACT, MCLA 333.27101, et seq., TO AMEND APPENDIX A (ZONING) OF THE EMMETT CHARTER TOWNSHIP CODE OF ORDINANCES IN ORDER TO DESIGNATE LOCATIONS FOR MEDICAL MARIHUANA FACILITIES WITHIN THE TOWNSHIP AND TO PLACE CONDITIONS ON THE OPERATION OF SUCH FACILITIES AND TO OTHERWISE PROTECT THE PUBLIC HEALTH SAFETY AND WELFARE

ORDINANCE NO. 5 of 2018

THE CHARTER TOWNSHIP OF EMMETT ORDAINS:

SECTION 1. NONCONFORMITIES.

Section 7.12 Appendix A of the Emmett Charter Township Code is hereby created to read as follows:

Section 7.12. Marijuana facilities.

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 nor 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.

SECTION 2. TABLE AMENDED.

Section 10.10A of Appendix A of the Emmett Charter Township Code is hereby amended to read as follows:

Section 10.10A. Specific conditions and requirements-Conditional uses.

In addition to the general standards outlined under Section 10.07 for all conditional uses, some conditional uses shall also be subject to specific conditions for approval. In addition to those listed, the Planning Commission and/or the Township Board may impose further conditions based upon concerns related to the compatibility of the conditional use in relation to surrounding land uses and zoning districts. The following uses are listed with their associated zoning districts and sections:

<i>Conditional Use</i>	<i>District(s)</i>	<i>Section</i>
<i>Open storage/junk yard/auto wrecking yard</i>	<i>LI, IP</i>	<i>10.11</i>
<i>Residential care facilities</i>		
<i>Group child care (See def. 90.b.)</i>	<i>RB, MF</i>	<i>10.12</i>
<i>Limited res. care (See def. 90.c.)</i>	<i>MF, LC</i>	<i>10.12</i>
<i>Full res. Care</i>	<i>GC</i>	<i>10.12</i>
<i>Places of amuse./commercial recreation</i>	<i>GC, RC</i>	<i>10.13</i>
<i>Gasoline service station</i>	<i>LC, GC, LI</i>	<i>10.14</i>
<i>Medical/dental/animal clinic</i>	<i>LC, GC</i>	<i>10.15</i>
<i>Mining and extraction</i>	<i>AB, IP</i>	<i>10.16</i>
<i>Campgrounds, pvt. recreation</i>	<i>OC</i>	<i>10.17</i>
<i>Essential services/buildings</i>	<i>RR, RA, RB, MF</i>	<i>10.18</i>
<i>Planned unit development</i>		
<i>Residential only</i>	<i>RR, RA, RB, MH, MF</i>	<i>10.19</i>
<i>Mixed use</i>	<i>MF, LC</i>	<i>10.19</i>
<i>Planned shopping/plazas</i>	<i>GC</i>	<i>10.20</i>
<i>Churches/community buildings</i>	<i>RR, RA, RB</i>	<i>10.21</i>
<i>Golf course/driving range</i>	<i>OC, RA, MH</i>	<i>10.22</i>
<i>Group housing</i>	<i>MF</i>	<i>10.23</i>
<i>Agri-business</i>	<i>AB</i>	<i>10.24</i>
<i>New and used vehicle sales</i>	<i>GC</i>	<i>10.25</i>
<i>Mini-storage warehouse</i>	<i>GC</i>	<i>10.26</i>
<i>Telecommunication towers</i>	<i>RR, GC, RC, LI, IP</i>	<i>10.27</i>
<i>Commercial kennel</i>	<i>AB, RR</i>	<i>10.28</i>
<i>Private airport</i>	<i>AB</i>	<i>10.29</i>
<i>Home occupation</i>	<i>AB, RR, RA, RB</i>	<i>10.30</i>
<i>Roadside stand</i>	<i>AB, RR</i>	<i>10.31</i>
<i>High-density animal feeding</i>	<i>AB</i>	<i>10.32</i>
<i>Schools</i>	<i>RA, RB</i>	<i>10.33</i>
<i>Single-family/two-family dwellings</i>	<i>OC, RB, LC, GC, LI</i>	<i>10.34</i>

<i>Conditional Use</i>	<i>District(s)</i>	<i>Section</i>
<i>Office uses</i>	<i>MF, LI</i>	<i>10.35</i>
<i>Drive-in/drive-through establishments</i>	<i>LC, RC, LI</i>	<i>10.36</i>
<i>Liquor-related stores and restaurants</i>	<i>LC</i>	<i>10.37</i>
<i>Temporary buildings/ trailer offices</i>	<i>GC, LI</i>	<i>10.38</i>
<i>Funeral parlor</i>	<i>GC</i>	<i>10.39</i>
<i>Open-air business/display/flea markets</i>	<i>GC, LI</i>	<i>10.40</i>
<i>Wholesale service business</i>	<i>GC</i>	<i>10.41</i>
<i>Parking garages/truck storage</i>	<i>GC, LI</i>	<i>10.42</i>
<i>Dry cleaning and laundry facilities</i>	<i>GC</i>	<i>10.43</i>
<i>Agricultural sales, service and repair</i>	<i>GC</i>	<i>10.44</i>
<i>Frozen food lockers</i>	<i>GC</i>	<i>10.45</i>
<i>Convention ctr., concert hall/theater</i>	<i>RC</i>	<i>10.46</i>
<i>Transportation terminal/related</i>	<i>LI</i>	<i>10.47</i>
<i>Contractor's establishment</i>	<i>LI</i>	<i>10.48</i>
<i>Adult entertainment</i>	<i>LI</i>	<i>10.49</i>
<i>Equestrian facilities including indoor arenas</i>	<i>AB</i>	<i>10.50</i>
<i>Marijuana growers</i>	<i>AB, LI, IP</i>	<i>11A.03, 16.03, 17.03</i>
<i>Marijuana processors</i>	<i>LC, GC, RC, LI, IP</i>	<i>14A.03, 15.03, 15A.03, 16.03, 17.03</i>
<i>Marijuana provisioning centers</i>	<i>LC, GC, RC, LI, IP</i>	<i>14A.03, 15.03, 15A.03, 16.03, 17.03</i>
<i>Marijuana secured transporters</i>	<i>LC, GC, RC, LI, IP</i>	<i>14A.03, 15.03, 15A.03, 16.03, 17.03</i>
<i>Marijuana safety compliance facilities</i>	<i>LC, GC, RC, LI, IP</i>	<i>14A.03, 15.03, 15A.03, 16.03, 17.03</i>

SECTION 3. CONDITIONAL USE STANDARDS.

Section 10.51 of Appendix A of the Emmett Charter Township Code is hereby created to read as follows:

10.51 Marijuana grower, marijuana processor, marijuana provisioning center, marijuana secured transporter, and marijuana safety compliance facility.

- A. *A marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, and marijuana safety compliance facility, in accordance with the provisions of state law, may be permitted through the issuance of a special use permit pursuant to this article 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 shall not be permitted by the township. In the event that a court with jurisdiction declares some or all of this article invalid, then the township 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 conditional use permit the marijuana facility applicant must possess a prequalification letter issued by the Bureau of Medical Marijuana Regulation establishing that the Medical Marijuana Licensing Board has determined that the applicant has prequalification status pursuant to the licensing provisions of the Medical Marijuana Facilities Licensing Act (MMFLA) and MMFLA Emergency Rule 4.*
 3. *At the time of application for a conditional use permit the marijuana facility must be licensed by township, or have the township license concurrently in process with the special use permit and site plan approval, and then must be at all times in compliance with Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
 4. *The use or facility must be at all times in compliance with all other applicable laws and ordinances of the township.*

5. *The township may suspend or revoke a conditional 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, Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances, or the terms of the special use permit and approved site plan are not met.*
 6. *A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.*
 7. *Signage requirements for marijuana facilities, unless otherwise specified, are as provided in Article 8 of this ordinance.*
- B. *Marijuana growers and marijuana processors shall be subject to the following standards:*
1. *Minimum Yard Depth/Distance from Lot Lines. The minimum front, rear, and side yard setbacks for any structure used for marijuana production shall be 50 feet. The minimum front, rear, and side yard setbacks for outdoor production shall be a minimum of 100 feet from all lot lines. The minimum water front setback for any structure or outdoor production shall be a minimum of 100 feet from the ordinary high water mark.*
 2. *Indoor Production and Processing. In the LI-Light Industrial and IP-Industrial Park districts, marijuana production shall be located entirely within one or more completely enclosed buildings. In the GC-General Commercial, RC-Regional Service Commercial, LI-Light Industrial, and IP-Industrial Park districts, marijuana processing shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors.*
 3. *Maximum Building Floor Space. The following standards apply in the LI-Light Industrial and IP-Industrial Park districts:*
 - a. *The maximum square footage of building floor space which may be used for activities associated with marijuana production on the subject property shall be as determined by the State Construction Code.*

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.*

6. *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.*

7. *Residency. In the AB-Agricultural/Business district 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. *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.*

2. *Other Activities. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.*

3. *Nonconforming Uses. A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.*

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, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.*

5. *Buffer Zones. A provisioning center may not be located within 500 feet of a church or a school building. The distance between the church or school building and the contemplated location must be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the church or school building nearest to the*

contemplated location and from the part of the contemplated location nearest to the church or school building. The township board may waive this section for provisioning centers. If an objection is not filed by the church or school, the township board may issue the license under this ordinance. If an objection is filed, the township board shall hold a hearing under rules established by the board before making a decision on issuing the license.

6. *Odor. As used in this subsection, building means the building, or portion thereof, used for a provisioning center.*

a. *The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.*

b. *The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter (s) shall be rated for the applicable CFM.*

c. *The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.*

d. *Negative air pressure shall be maintained inside the building.*

e. *Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.*

f. *An alternative odor control system is permitted if the special use applicant submits and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.*

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

1. *A marijuana safety compliance facility shall be subject to the special regulations and standards applicable to medical laboratories and medical testing facilities in the ordinance.*

2. *All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.*

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

1. *A marijuana secure transporter shall be subject to the special regulations and standards applicable to transportation and warehousing uses in the ordinance.*
2. *Any buildings or structures used for the containment of stored materials shall comply with all set-back restrictions contained within the ordinance pertaining to the district in which they are located.*

SECTION 4. AB-AGRICULTURAL BUSINESS DISTRICT; CONDITIONAL USES ADDED.

Subsection “i” of Section 11A.03 of Appendix A of the Emmett Charter Township Code is hereby created to read as follows:

- i. A medical marijuana grower as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*

SECTION 5. LC-LOCAL COMMERCIAL DISTRICT; LETTERING CORRECTED AND CONDITIONAL USES ADDED.

Subsection “d. Limited residential care facilities” is relettered as subsection “e.” and subsections “f.”, “g.”, “h.” and “i.” of Section 14A.03 of Appendix A of the Emmett Charter Township Code are hereby created to read as follows:

- f. A marijuana processor as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- g. A marijuana provisioning center as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- h. A marijuana secured transporter as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- i. A marijuana safety compliance facility as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*

SECTION 6. GC-GENERAL COMMERCIAL DISTRICT; CONDITIONAL USES ADDED.

Subsections “l,” “m,” “n,” and “o” of Section 15.03 of Appendix A of the Emmett Charter Township Code are hereby created to read as follows:

- l. A marijuana processor as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- m. A marijuana provisioning center as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- n. A marijuana secured transporter as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- o. A marijuana safety compliance facility as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*

SECTION 7. RC-REGIONAL SERVICE COMMERCIAL DISTRICT; CONDITIONAL USES ADDED.

Subsections “D,” “E,” “F,” and “G” of Section 15A.03 of Appendix A of the Emmett Charter Township Code are hereby created to read as follows:

- D. A marijuana processor as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- E. A marijuana provisioning center as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- F. A marijuana secured transporter as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- G. A marijuana safety compliance facility as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*

SECTION 8. LI-LIGHT INDUSTRIAL DISTRICT; CONDITIONAL USES ADDED.

Subsections “d,” “e,” “f,” “g,” and “h” of Section 16.03 of Appendix A of the Emmett Charter Township Code are hereby created to read as follows:

- d. A marijuana grower as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- e. A marijuana processor as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*

- f. *A marijuana provisioning center as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances;*
- g. *A marijuana secured transporter as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- h. *A marijuana safety compliance facility as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*

SECTION 9. IP-INDUSTRIAL PARK DISTRICT; CONDITIONAL USES ADDED.

Subsections “c,” “d,” “e,” “f,” and “g” of Section 17.03 Appendix A of the Emmett Charter Township Code are hereby created to read as follows:

- c. *A marijuana grower as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- d. *A marijuana processor as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- e. *A marijuana provisioning center as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances;*
- f. *A marijuana secured transporter as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*
- g. *A marijuana safety compliance facility as authorized by Article IV of Chapter 18 of the Emmett Charter Township Code of Ordinances.*

SECTION 10. SECTION RE-NUMBERED.

Sub-section “45a” of Section 21.02 of Appendix A of the Emmett Charter Township Code (definition of “High-density animal feeding operation”) is hereby renumbered as sub-section “45b”.

SECTION 11. DEFINITIONS ADDED.

Section 21.02 of Appendix A of the Emmett Charter Township Code is hereby amended to add the following definitions as numbered:

- 31a. ***Emergency Rules.*** *Rules as promulgated by the department of Licensing and Regulatory Affairs (LARA) to establish emergency rules for the purpose of implementing the Medical Marijuana Facilities Licensing Act, MCL 333.27101, et seq.*

- 45a. **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.*
- 55c. **Licensee.** *A person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq.*
- 66a. **Marijuana or marihuana.** *These terms shall have the meaning ascribed to them by the Public Health Code, MCL 333.1101, et seq.; the Michigan Medical Marihuana Act, MCL 333.26421, et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901, et seq.*
- 66b. **Marijuana facility.** *An enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421, et seq.*
- 76a. **Outdoor production.** *An enterprise involving the growing of 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.*
- 77a. **Person.** *An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.*
- 84a. **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.*
- 84b. **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 in accordance with the Michigan Medical Marihuana Act, MCL 333.26421, et seq., is not a provisioning center for purposes of this article.*

96a. *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.

97a. *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.

111a. *Township.* Emmett Charter Township, Calhoun County, Michigan.

SECTION 12. SEVERABILITY.

If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provisions of this Ordinance that can be given effect without the invalid section, paragraph, clause, or provision, and for this purpose, the sections, paragraphs, clauses, and provisions of this Ordinance are hereby declared to be severable.

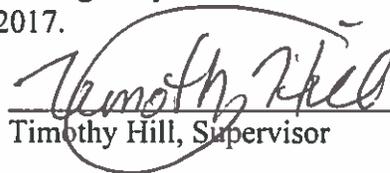
SECTION 13. REPEAL.

All other ordinances, resolutions, orders, or parts of ordinances herewith in effect that are in conflict with this ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 14. EFFECTIVE DATE.

Pursuant to Section 401 of the Michigan Zoning Enabling Act (MCL 125.3401), this Ordinance shall take effect seven (7) days after publication of this Ordinance or a summary of the regulatory effect thereof which publication shall occur in a newspaper of general circulation in the Township within fifteen (15) days after adoption.

This Ordinance is hereby declared to have been passed and adopted by Emmett Charter Township, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this 13 day of September, 2017.



Timothy Hill, Supervisor

ATTEST:



Tracy Myers-Malone, Clerk

Prepared by:
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