

STATE OF MICHIGAN  
COUNTY OF SAGINAW  
BUENA VISTA CHARTER TOWNSHIP

ORDINANCE NO. 270

AN ORDINANCE TO AMEND THE BUENA VISTA CHARTER TOWNSHIP ZONING ORDINANCE, TO AMEND DEFINITIONS AND ADOPT LAND USE REGULATIONS PERTAINING TO MARIJUANA FACILITIES AS PROVIDED BY THE *MEDICAL MARIHUANA FACILITIES LICENSING ACT*, MCL 333.27101, *et seq.*

Buena Vista Charter Township Ordains:

Section 1. Purpose

The purpose of this Zoning Ordinance Amendment is to adopt certain definitions and land use regulations pertaining to marijuana facilities as provided by the *Medical Marihuana Facilities Licensing Act*, MCL 333.27101, *et seq.* ("Act").

Section 2. Amendment to Chapter 2.00

The Buena Vista Charter Township Zoning Ordinance is hereby amended at Chapter 2.00, "Definitions", Section 202, "Definitions", to include and amend the following definitions:

"MARIJUANA" OR "MARIHUANA": "Marijuana" or "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

"MARIJUANA FACILITY": "Marijuana or Marihuana Facility" means a Marijuana or Marihuana Facility as defined and provided by the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq.*, as amended ("Act") and includes the following:

**1) *Grower Facilities.*** "Grower" means a facility licensed under the Act and Chapter of the Buena Vista Charter Township Code of Ordinances 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.

**2) *Provisioning Centers.*** "Provisioning center" means a facility licensed under the Act and Chapter of the Buena Vista Charter Township Code of Ordinances 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 only assist a qualifying patient connected to the caregiver through the state's medical marihuana

registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center.

3) *Processor Facilities*. "Processor" means a facility licensed under the Act and Chapter of the Buena Vista Charter Township Code of Ordinances 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.

4) *Secure Transporters*. "Secure transporter" means a facility licensed under the Act and Chapter of the Buena Vista Charter Township Code of Ordinances that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

5) *Safely Compliance Facilities*. "Safety compliance facility" means a facility licensed under the Act and Chapter of the Buena Vista Charter Township Code of Ordinances 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.

**"MARIJUANA FACILITY OPERATING LICENSE"**: A License authorizing the operation of a Marijuana Facility as follows:

1) *"State Operating License"* or, unless the context requires a different meaning, "State License" means a license that is issued under the Act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A provisioning center.
- (v) A safety compliance facility.

"State Licensee" means a person holding a valid State operating license

2) *"Township Operating License"* or, unless the context requires a different meaning, "Township License" means a license that is issued under this Chapter that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A provisioning center.
- (v) A safety compliance facility.

"Township Licensee" means a person holding a valid Township operating license

**"REGISTERED PRIMARY CAREGIVER"** means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marijuana Act, MCL 333.26421, *et seq.*, as amended.

**"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 Marijuana Act, MCL 333.26423.

**"REGISTRY IDENTIFICATION CARD"** means that term as defined in section 3 of the Michigan Medical Marijuana Act, MCL 333.26423.

Section 3. Amendment to Chapter 3.00

The Buena Vista Charter Township Zoning Ordinance is hereby amended at Chapter 3.00, "Zoning Districts and Map", Section 308 (9) B-2 Commercial : Intensive District, (C) "Permitted Uses After Special Approval" by adding subsection (10), which shall read as follows:

- (10) Marijuana Provisioning Centers.

Section 4. Amendment to Chapter 3.00

The Buena Vista Charter Township Zoning Ordinance is hereby amended at Chapter 3.00, "Zoning Districts and Map", Section 308 (10) B-3 Commercial : Wholesale and Business Services District, (C) "Permitted Uses After Special Approval" by adding subsection (15), which shall read as follows:

- (15) Marijuana Provisioning Centers.

Section 5. Amendment to Chapter 3.00

The Buena Vista Charter Township Zoning Ordinance is hereby amended at Chapter 3.00, "Zoning Districts and Map", Section 308 (11) M-1 Industrial: Limited Manufacturing District, (C) "Permitted Uses After Special Approval" by adding subsection (18), which shall read as follows:

- 18. Marijuana Facilities as follows:
  - A. Marijuana Provisioning Centers;
  - B. Marijuana Grower Facilities;
  - C. Marijuana Processor Facilities;
  - D. Marijuana Transporter Facilities;

- E. Marijuana Safety Compliance Facilities;

Section 6. Amendment to Chapter 3.00

The Buena Vista Charter Township Zoning Ordinance is hereby amended at Chapter 3.00, "Zoning Districts and Map", Section 308 (12) M-2 Industrial: Intensive Manufacturing District, (C) "Permitted Uses After Special Approval" by adding subsection (16), which shall read as follows:

- 18. Marijuana Facilities as follows:
  - A. Marijuana Provisioning Centers;
  - B. Marijuana Grower Facilities;
  - C. Marijuana Processor Facilities;
  - D. Marijuana Transporter Facilities;
  - E. Marijuana Safety Compliance Facilities;

Section 7. Amendment to Chapter 9.00

a) The Buena Vista Charter Township Zoning Ordinance is hereby amended at Chapter 9.00, "Nonconforming Uses", Section 904, "Nonconforming Uses of Structures and Land" add new subparagraph G-I, which shall read as follows:

(G) 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.

(H) A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Ordinance or any amendment thereto.

(I) Discontinuation of a state medical marijuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.

Section 8. Amendment to Chapter 4.00

a) The Buena Vista Charter Township Zoning Ordinance is hereby amended at Chapter 4.00, "General Provisions", by adopting a new Section 402 (00) "Marijuana Facilities" which shall read as follows:

Section 402 (00)—MARIJUANA FACILITIES

(a) **Purpose and Intent.** This ordinance is adopted for the purpose of promulgating Township land use and zoning requirements for Marijuana Facilities by adopting local land use and zoning application, review and approval criteria for Marijuana Facilities in a manner that promotes and protects the public health, safety and welfare, mitigates potential impacts on surrounding properties and persons, and that conforms with the policies and requirements of the Michigan Medical Marijuana Act, MCL 333.26421, *et seq.*, as amended (hereinafter "MMMA") and for the further purpose of implementing provisions of Medical Marijuana Facilities Licensing Act, MCL 333.27101, *et seq.*, as amended (hereinafter "Act"). In the event of any conflict between any provision of this Chapter and state law, state law shall be controlling regarding any conflicting provisions.

(b) **Number and Location.** The number and placement of Marijuana Facilities shall comply with zoning district limitations and requirements as follows:

FACILITY	ZONING DISTRICT	NUMBER (per Township)
<i>Grower</i>	M-1, M-2	3
<i>Processor</i>	M-1, M-2	3
<i>Secure Transporter</i>	M-1, M-2	3
<i>Provisioning Center</i>	M-1, M-2, B-2, B-3	3
<i>Safety Compliance</i>	M-1, M-2	3

(c) **Operating License Requirements.** Any land use, site plan or other zoning approval of a Marijuana Facility granted under any provision of this zoning ordinance shall be deemed conditional upon the timely approval and issuance of both a State and Township Marijuana Facility Operating License. Revocation or denial of a required Marijuana Facility Operating License shall render any approval of a Marijuana Facility granted under any provision of this zoning ordinance null and void.

(d) **Approved Site Plan Required.** Use of any property or structure as a Marijuana Facility requires Site Plan Review and approval of a site plan by the Planning Commission pursuant to Section 1101 (C) of this Chapter. Marijuana Facilities shall be operated and maintained in compliance with the approved site plan for the facility. Any use of property or a structure without, or in violation of, an approved site plan shall constitute a violation of this zoning ordinance and a nuisance per se subject to abatement by a court of competent jurisdiction.

(e) **Site Plan Application and Review Criteria.** A site plan and site plan approval application for a Marijuana Facility shall generally comply with section 1101 (C) "Site Plan Review". A site plan application for a Marijuana Facility shall be processed in accordance with the Planning Commission Review procedures in Section 1101 (D). by the Planning Commission. In addition to the criteria set forth in Section 1101, the following shall apply to a site plan/application for a Marijuana Facility:

(1) Identification of the type of Marijuana Facility applied for (e.g. grower, provisioning center, etc.) and a detailed description of all services, products, items, uses, operations or merchandise produced, sold, offered, conducted or provided by the proposed Marijuana Facility;

(2) Marijuana Facility uses, operations and activities shall comply with all rules and operating regulations adopted pursuant to Section 206 of the Act. A description of an operating plan for the proposed Marijuana Facility shall be provided including the following:

i. A description of the products and services to be provided by the Marijuana Facility, including retail sales of food and/or beverages, if any, and any related accommodations or facilities;

ii. A floor plan, drawn to scale, showing the layout of the Marijuana Facility and the principal uses of the floor area depicted therein, including a detailed depiction of where any uses other than marijuana related uses are proposed to occur on the premises;

iii. A detailed description of all marijuana storage facilities and equipment including enclosed, locked facilities, if any, as may be required by the Act. Storage of marijuana shall comply with applicable rules adopted pursuant to Section 206 of the Act.

(3) A description of waste disposal procedures, methods and facilities for marijuana waste products including, but not limited to, usable and non-usable marijuana. Waste product disposal and storage shall comply with applicable rules adopted pursuant to Section 206 of the Act;

(4) A description of any proposed signs including a detailed depiction of sign language or displays, dimensions, locations, quantity, configuration and illumination. Signs shall comply with applicable provisions of the Township's Sign Ordinance and any marketing /advertising restrictions for marijuana products and facilities adopted pursuant to Section 206 of the Act.

(5) Signed and dated verification by the property owner, or his/her duly authorized agent, of the premises where the proposed Marijuana Facility will be located certifying that the property owner has reviewed and been provided with a complete copy of the application and consents to use and occupancy of the premises as a Marijuana Facility as described and referenced in the application.

(6) A detailed description of the proposed security plan for the facility including identification of all proposed security measures, equipment and devices. A security plan shall comply with rules and security regulations adopted pursuant to Section 206 of the Act. Security plans require review and approval by the Chief of Police. The Chief of Police may require review and recommendation of a proposed security plan by an independent consultant with credentialed expertise in the field of site/facility security measures. The cost of an independent review by an independent security consultant shall be paid by the applicant. The security plan may be reviewed periodically by the Chief of Police at their discretion to ensure the health, safety and welfare of Buena Vista Township.

(7) A Marijuana Facility shall not be located less than one thousand feet (1000') from a school, day care center, recreational facility, church, public or private park. The minimum required distance of 1,000 feet shall be measured as the shortest distance between the principal building unit that is occupied by the regulated use to the nearest property line of the protected use. For purposes of this ordinance "School" means any public or private school meeting all requirements of the compulsory education laws of the state.

(8) Unless otherwise authorized pursuant to any rules adopted pursuant to Section 206 of the Act, all facility operations, transactions and activities shall be conducted within an enclosed structure. Other than waste disposal, outdoor storage is prohibited.

(9) An area map, drawn to scale, shall be provided indicating, within a radius of one thousand feet (1,000 ft.) from the boundaries of the proposed Dispensary site, the proximity of the site to any school, existing dispensary, day care center, recreational facility, church, public or private park;

(10) Action by Planning Commission. Upon reviewing the application and all findings and recommendations of the Township Department Heads and consultants, the Planning Commission shall take action on the application according to the Planning Commission Review criteria and procedures in Section 1101 (D) and the provisions specific to Marijuana Facilities as set forth in this zoning ordinance. An application for site plan approval of a Marijuana Facility that is materially incomplete or would result in a violation of state or local law shall be denied. Approval of a site plan for a Marijuana Facility does not guarantee, represent or imply approval of a Marijuana Facility Operating License or any other permit or local approval that may be required by Township codes or ordinances for the proposed facility.

#### Section 9. Amendment to Chapter 11

a) The Buena Vista Charter Township Zoning Ordinance is hereby amended at Chapter 11.00, "Procedures and Standards", Section 1102, "Permitted Uses after Special Approval", C "Special Use Review Procedure" add new subparagraph G, which shall read as follows:

**(G) Special Use Approval for Medical Marijuana Facilities.** Subsequent to the hearing, the Planning Commission shall review the proposed application for a medical marijuana facility, together with any reports and recommendations from staff, the Township Planner, other Township consultants, and any public comments. The Planning Commission shall identify and evaluate all relevant factors, and shall report its findings and recommendation in writing to the Township Board. The Township Board shall then make a determination based on the requirements of this Ordinance and the standards contained in Section 1102(G), Standards for Special Use Approval. The Township Board is authorized to table, approve, approve subject to conditions or deny the special use outline in Section 1102(C) (a-d).

Section 10. Severability

If any section, clause or provision of this ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this ordinance; but the remainder of this ordinance shall stand and be in full force and effect.

Section 11. Savings

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 12. Repealer.

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

Section 13. Effective Date.

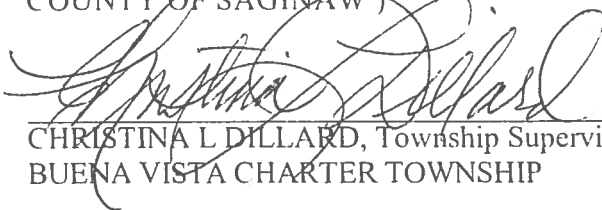
The provisions of this ordinance are hereby ordered to take effect following publication as provided by the Michigan Zoning Enabling Act, as amended, *MCL 125.3101, et seq.*, and in the manner prescribed by the Zoning Ordinance and Charter of the Buena Vista Charter Township. This ordinance is hereby declared to have been adopted by the Buena Vista Township Board on April 30, 2018 and ordered to be given publication in the manner prescribed by the Township Charter of the Buena Vista Charter Township.

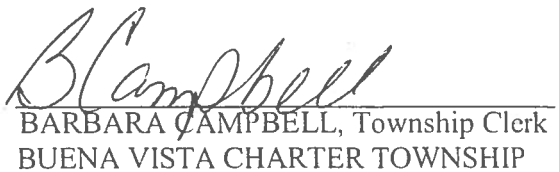
**AYES: Supervisor Dillard, Clerk Campbell, Trustees' Curry, Jernigan, McKinnie**  
**NAYS: Trustee Payton**  
**ABSENTS: Treasurer Bibbs**  
**ABSTENTIONS: None**

STATE OF MICHIGAN )

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COUNTY OF SAGINAW )

  
CHRISTINA L DILLARD, Township Supervisor  
BUENA VISTA CHARTER TOWNSHIP

  
BARBARA CAMPBELL, Township Clerk  
BUENA VISTA CHARTER TOWNSHIP

Introduced: April 19, 2018  
Adopted: April 30, 2018  
Effective: May 17, 2018