

CHARTER TOWNSHIP OF UNION
Isabella County, Michigan
Ordinance Number 2011-03

An Ordinance amending the Charter Township of Union Zoning Ordinance, being Ordinance number 1991-5, as amended.

SECTION I: PURPOSE

The purpose of this section is to regulate the location, but not exclude the use and handling, of the medical use of marihuana consistent with the Michigan Medical Marihuana Act, (MMMA) MCL 333.26421 et seq by designating the specific locations for the medical use of marihuana. Under no circumstances is the use or handling of marihuana inconsistent with the Michigan Medical Marihuana Act permissible in the Charter Township of Union. In creating these regulations, the Charter Township of Union acknowledges that the majority of voters in Michigan have found and declared that medical research has discovered beneficial uses for marihuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions; that legalizing the medical use of marihuana will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need for that use; and that, although federal law currently prohibits any use of marihuana except under very limited circumstances, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law.

While the Charter Township of Union defers to these findings, it recognizes that there are some uses which, by their very nature, present the potential for deleterious effects upon adjacent residential and commercial areas. It is the further intent of this Ordinance to comply with the Act while protecting the health, safety and welfare of persons in the community and to address and minimize reasonable anticipated secondary effects upon members of the public that would be reasonably expected to occur in the absence of this Ordinance. Such secondary effects would include but are not limited to: danger to law enforcement and other members of the public; increases in criminal activity; and installation of plumbing and electrical facilities that create dangerous conditions. The Charter Township of Union also recognizes that the regulation of the use and handling of marihuana for medical use is necessary to minimize these risks while insuring that it is available to persons registered under the Michigan Medical Marihuana Act.

FEDERAL PROSECUTION

Nothing in this Ordinance, or in any companion regulatory provision adopted in any other Charter Township of Union Ordinance, is intended to grant, nor shall they be construed as granting, immunity from state or federal prosecution or forfeiture of property.

ILLEGAL NONCONFORMING USE

A use which purports to have engaged in the medical use of marihuana prior to enactment of this Ordinance, shall be deemed to not be a legally established use, and therefore shall not have vested rights or legal nonconforming use status under the provisions of this Ordinance and/or state law that would serve as a basis for failing to comply with this Ordinance or any amendment of this Ordinance.

The Charter Township of Union, Isabella County, Michigan, Hereby Ordains:

A person who is at least twenty-one (21) years old and who has agreed to assist with a Qualifying Patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs and is currently registered pursuant to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

New section 3.60.1

QUALIFYING PATIENT

A person who has been diagnosed by a physician as having a debilitating medical condition and is currently registered pursuant to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

SECTION 8

GENERAL PROVISIONS

New section 8.2.G

ACCESSORY USE

G. The medical use of marihuana, to the extent made lawful by the Michigan Medical Marihuana Act, MCL 333.26421 et seq, as amended, but only in One-Family Dwellings, Two-Family Dwellings and Multiple-Family Dwellings subject to the following conditions:

1. Marihuana plants shall be cultivated in an enclosed locked facility within a dwelling unit which is the legal and primary place of residence of the person cultivating those plants (See 3.24.1).
2. No more than the maximum number of marihuana plants one person may cultivate pursuant to the MMMA, up to a maximum of 72 shall be cultivated in any dwelling unit.
3. Cultivation shall not be visible from the exterior of the dwelling unit.
4. No transfer or delivery of marihuana shall occur at a dwelling unless between Qualifying Patients residing in the same dwelling unit or between a Primary Caregiver and the Qualifying Patient to whom he or she is connected through the Department of Licensing and Regulatory Affairs (LARA) registration process. This subsection does not prohibit a Marihuana Dispensary from delivering marihuana to a Qualifying Patient at the Qualifying Patient's home.
5. No marihuana plants shall be cultivated in any accessory building, including but not limited to, a detached garage, shed, greenhouse, kennel, or barn.
6. The cultivation of marihuana plants shall not exceed 400 square feet of a dwelling unit.
7. The medical use of marihuana as an accessory use to a dwelling shall not generate noise, vibration, odors or heat that is detectible beyond the dwelling unit.
8. Engaging in the medical use of marihuana as permitted as an accessory use to a dwelling shall not generate more than an additional five (5) visits to the dwelling unit per day.

9. Prior to cultivation of marihuana as an accessory use in a dwelling, an inspection by the Township is required to confirm that all necessary building, electrical, plumbing and mechanical permits have been obtained for any portion of a dwelling in which electrical wiring, lighting, or watering devices that support the cultivation, growing, or harvesting of marihuana are located. In carrying out the provisions of this subsection, the Township shall not require the name and address of the patient. The intent of this subsection is to ensure the safety of residents of the premises and the public. The fees shall be established by resolution of the Township Board and published in the Township Schedule of Fees.

PERMITTED USES

Add following New text:

H. Accessory buildings and uses in conformity with Section 8 that are customarily incidental to the above permitted uses, provided accessory buildings and uses shall not be used for commercial or industrial purposes, including, but not limited to, retail, manufacture or storage activities.

At Sections 13.2.H, 14.2.E, 15.2.D, 16.2.D, 17.2.C, 19.2.B, 20.2.D,

MULTIPLE-FAMILY RESIDENTIAL DISTRICTS USES

Replace existing subsection C with new text:

C. Accessory buildings and uses in conformity with Section 8 that are customarily incidental to the above permitted uses, provided accessory buildings and uses shall not be used for commercial or industrial purposes, including, but not limited to, retail, manufacture or storage activities.

Renumber existing Special Use as subsection D and add new special use 7:

D.7. Marihuana Club

At Sections 17.2 and 18.2

BUSINESS DISTRICT PERMITTED USES

Add new Text at 22.2.R & S

R. Marihuana Club, provided the following requirements are met.

1. The Marihuana Clubs are located only in R3-A, R3-B districts by special use permit and in B-4, B-5, B-6, or B-7 Districts by zoning permit.
2. State Law. A Marihuana Club shall at all times comply with the Michigan Medical Marihuana Act, MCL 333.26421 et seq and the Administrative Rules of the Michigan Department of Community Health, as they may be amended from time to time.
3. Zoning Permit Required. A zoning permit must be obtained for a specific site before a Marihuana Club is operated in the Charter Township of Union.
4. Inspections. Quarterly inspections shall be made by the Township to confirm the Marihuana Club is operating in accordance with applicable laws.
5. Standards and Review of Zoning Permit. The Zoning Official shall review each application for a zoning permit for a Marihuana Club and shall grant or deny the permit based on the Zoning Ordinance requirements for Marihuana Clubs. A denial can be appealed to the Zoning Board of Appeals, which shall hear and

decide the appeal or request for a variance within 45 days, and thereafter the applicant can appeal to the circuit court.

6. Not Transferable. Permits are not transferrable and shall only apply to the specific site approved.
7. Activity on Site. There shall be no transfer, deliver, acquisition, sale, cultivation, manufacture or ingestion, smoking or other consumption, of controlled substances, including marihuana, on the site.
8. Dwelling Units. A Marihuana Club shall not be located on the same parcel as a dwelling unit.
9. Drive thru. Drive thru facilities are prohibited on a Marihuana Club site.
10. Dispersal and Spacing. The parcel on which a Marihuana Club is located shall be situated at least one thousand (1000) feet from the parcel on which another Marihuana Club is located, as measured between property lines.
A Marihuana Club shall be situated at least five hundred (500) feet from a parcel on which a church, house of worship, school, licensed day care, community center or public park is located as measured between property lines. For purposes of this section a school shall be any public or private institution of learning, elementary through secondary (k-12) and any preschool.
11. Site Requirements.
 - a. Driveways and parking areas shall be as specified in 30.4.B.2.
 - b. Entrances and exits shall be as specified in 30.4.B.2.
 - c. Signage consistent with the Township's signage provisions of the zoning ordinance shall be allowed on the site.
12. Enforcement. Violations of the Marihuana Club requirements shall be subject to prosecution by the Charter Township of Union, and more than two (2) violations in any twelve (12) month period shall be cause for the revocation of the zoning permit, but only after prior written notice of each violation and thirty (30) days prior written notice of a hearing before the Zoning Board of Appeals on the question of revoking the zoning permit.

S. Marihuana Dispensary, provided the following requirements are met:

1. State Law. A Marihuana Dispensary shall at all times comply with the Michigan Medical Marihuana Act, MCL 333.26421 et seq and the Administrative Rules of the Michigan Department of Community Health, as they may be amended from time to time.
2. Zoning Permit and Marihuana Dispensary License Required. Both a zoning permit and a Marihuana Dispensary License must be obtained for a specific site before a Marihuana Dispensary is operated in the Charter Township of Union.
3. Inspections. Quarterly inspections shall be made by the Township to confirm the Marihuana Dispensary is operating in accordance with applicable laws.
4. Standards and Review of Zoning Permit. The Zoning Official shall review each application for a zoning permit for a Marihuana Dispensary and shall grant or deny the permit based on the Zoning Ordinance requirements for Medical Marihuana Dispensaries. A denial can be appealed to the Zoning Board of Appeals, which shall hear and decide the appeal or request for a variance within 45 days, and thereafter the applicant can appeal to the circuit court.
5. Not Transferable. Permits are not transferrable and shall only apply to the

- specific site approved.
6. Dwelling Units. A Marihuana Dispensary shall not be located on the same parcel as a dwelling unit.
 7. Drive thru. Drive thru facilities are prohibited on a Marihuana Dispensary site.
 8. Dispersal and Spacing. The parcel on which a Marihuana Dispensary is located shall be situated at least one thousand (1000) feet from the parcel on which another Marihuana Dispensary, a Medical Marihuana Grow Facility, or a Marihuana Club is located, as measured between property lines.
The parcel on which a Marihuana Dispensary is located shall be situated at least five hundred (500) feet from a residential zoning district or a parcel on which a church, house of worship, school, licensed day care, community center or public park is located as measured between property lines or a property line and zoning district boundary when applicable. For purposes of this section a school shall be any public or private institution of learning, elementary through secondary (K-12) and any preschool.
 9. Site Requirements. Marihuana Dispensaries must be located on a site that provides:
 - a. off street parking shall be in accordance with Section 10, Parking and Loading Spaces, with one parking space for each 200 square feet of gross floor area;
 - b. illuminated and unscreened off street parking;
 - c. a front and side setback from any public sidewalk of 50 feet, measured from the face of the building to the sidewalk;
 - d. driveways and parking areas as specified in Section 30.4.B.2;
 - e. entrances and exits as specified in Section 30.4.B.2;
 - f. not more than one (1) sign announcing the service, shall be permitted as regulated in Section 11.7;
 - g. greenbelt planting and screening will be required so as to obscure view from any adjacent residential district. Screening shall consist of non-deciduous trees, not less than three (3) feet in height, planted and maintained in live condition not less than fifteen (15) feet on centers;
 - h. no storage of combustible or flammable liquids, combustible fibers, or explosive materials, as defined in the fire prevention code, or toxic materials shall be permitted upon the premises.
 10. Operational Requirements. A Marihuana Dispensary shall:
 - a. prohibit persons under the age of 18 from entering the business, unless they are in the possession of a Registry Identification Card or the equivalent, and are accompanied by their Primary Caregiver;
 - b. operate only between the hours of 8:00 a.m. and 7:00 p.m., including deliveries to and from the premises;
 - c. keep all marihuana, in any form, within an enclosed locked facility, so that the marihuana is not visible from any location outside of the building;
 - d. prohibit the cultivation, manufacture, ingestion, smoking or other consumption, of controlled substances, including marihuana, on the site;
 - e. allow the acquisition, delivery, transferring, transporting, supplying or dispensing of marihuana solely for the purpose of assisting a Qualifying Patient directly, or through a Qualifying Patient's Primary Caregiver, in

- f. the medical use of marihuana pursuant to the MMMA;
- f. refrain from emitting odors emanating from marihuana, beyond the building;
- g. have a single secure entrance and implement security measures to deter and prevent theft of marihuana, diversion of marihuana to illicit markets and unauthorized entrance into the Marihuana Dispensary;
- h. prohibit any person on the premises of a Dispensary unless they:
 - i. Possess a Registry Identification Card or the equivalent;
 - ii. Assist a Qualifying Patient in the use or administration of marihuana;
 - iii. Are an owner of the premises or an employee of the Marihuana Dispensary; or
 - iv. Are a service worker engaged in maintenance activities, postal delivery or law enforcement, emergency personnel and/or zoning personnel.
- i. prohibit the sale or rental of goods on the premises except as secondary and incidental to the primary purpose of a Marihuana Dispensary.

11. Enforcement. Violations of the Marihuana Dispensary requirements shall be subject to prosecution by the Charter Township of Union, and more than two (2) violations in any twelve (12) month period shall be cause for the revocation of the zoning permit, but only after prior written notice of each violation and thirty (30) days prior written notice of a hearing before the Zoning Board of Appeals on the question of revoking the zoning permit.

Add new text

- J. Marihuana Club provided the requirements of Section 22.2.R are met.
- K. Marihuana Dispensary provided the requirements of Section 22.2.S are met.
At Sections 23.2.J & K, 24.2.K & L, 25.2.H & I

INDUSTRIAL DISTRICTS PERMITTED USES

Add new text at 26.2.S

- S. Marihuana Growing Facility, when conducted within a completely enclosed building, provided the following requirements are met:
 - 1. State Law. A Marihuana Growing Facility shall at all times comply with the Michigan Medical Marihuana Act, MCL 333.26421 et seq and the Administrative Rules of the Michigan Department of Community Health, as they may be amended from time to time.
 - 2. Zoning Permit and Marihuana Growing Facility License Required. Both a zoning permit and a Marihuana Growing Facility License must be obtained for a specific site before a Marihuana Growing Facility is operated in the Charter Township of

Union.

3. Codes. Prior to cultivation of marihuana an inspection by the Township is required to confirm that all necessary building, electrical, plumbing and mechanical permits have been obtained for any portion of a building in which electrical wiring, lighting, or watering devices that support the cultivation, growing, or harvesting of marihuana are located. The intent of this subsection is to ensure the safety of the public.
4. Inspections. Quarterly inspections shall be made by the Township to confirm the Marihuana Growing Facility is operating in accordance with applicable laws.
5. Standards and Review of Zoning Permit. The Zoning Official shall review each application for a zoning permit for a Marihuana Growing Facility and shall grant or deny the permit based on the Zoning Ordinance requirements for Medical Marihuana Growing Facilities. A denial can be appealed to the Zoning Board of Appeals, which shall hear and decide the appeal or request for a variance within 45 days, and thereafter the applicant can appeal to the circuit court.
6. Not Transferable. Permits are not transferrable and shall only apply to the specific site approved.
7. Dwelling Units. A Marihuana Growing Facility shall not be located on the same parcel as a dwelling unit.
8. Drive thru. Drive thru facilities are prohibited on a Marihuana Growing Facility site.
9. Dispersal and Spacing. The parcel on which a Marihuana Growing Facility is located shall be situated at least one-thousand (1000) feet from the parcel on which another Marihuana Growing Facility, a Marihuana Dispensary, or a Marihuana Club is located, as measured between property lines.
The parcel on which a Marihuana Growing Facility is located shall be situated at least one-thousand (1000) feet from a residential zoning district or a parcel on which a church, house of worship, school, licensed day care, community center or public park is located as measured between property lines or a property line and zoning district boundary when applicable. For purposes of this section a school shall be any public or private institution of learning, elementary through secondary (K-12) and any preschool.
10. Site Requirements. Marihuana Growing Facilities must be located on a site that provides:
 - a. off street parking located shall be in accordance with Section 10, Parking and Loading Spaces, and 10.2.D;
 - b. illuminated and unscreened off street parking;
 - c. a front and side setback from any public sidewalk of 50 feet, measured from the face of the building to the sidewalk;
 - d. driveways and parking areas as specified in Section 30.4.B.2;
 - e. entrances and exits as specified in Section 30.4.B.2;
 - f. not more than one (1) sign announcing the service, shall be permitted as regulated in Section 11.7;
 - g. greenbelt planting and screening will be required so as to obscure view from any adjacent residential district. Screening shall consist of non-deciduous trees, not less than three (3) feet in height, planted and maintained in live condition not less than fifteen (15) feet on centers;
 - h. no storage of combustible or flammable liquids, combustible fibers, or

explosive materials, as defined in the fire prevention code, or toxic materials shall be permitted upon the premises.

11. Operational Requirements. A Marihuana Growing Facility shall:
 - a. prohibit persons under the age of 18 from entering the business, unless they are in the possession of a Registry Identification Card or the equivalent, and are accompanied by their Primary Caregiver;
 - b. keep all marihuana, in any form, within an enclosed locked facility, so that the marihuana is not visible from any location outside of the building;
 - c. prohibit the transfer, delivery, acquisition, sale, ingestion, smoking or other consumption, of controlled substances, including marihuana, on the site;
 - d. refrain from emitting odors emanating from the marihuana, beyond the building;
 - e. have a single secure entrance and shall implement security measures to deter and prevent theft of marihuana, diversion of marihuana to illicit markets and unauthorized entrance into the Marihuana Dispensary;
 - f. prohibit any person on the premises of a Dispensary or Growing Facility unless they:
 - i. Possess a Registry Identification Card or the equivalent;
 - ii. Assist a Qualifying Patient in the use or administration of marihuana;
 - iii. Are an owner of the premises or an employee of the Marihuana Dispensary or Marihuana Growing Facility; or
 - iv. Are a service worker engaged in maintenance activities, postal delivery or law enforcement, emergency personnel and/or zoning personnel.
 - g. prohibit the sale or rental of goods on the premises except as secondary and incidental to the primary purpose of a Marihuana Growing Facility.
9. Enforcement. Violations of the Marihuana Growing Facility requirements shall be subject to prosecution by the Charter Township of Union, and more than two (2) violations in any twelve (12) month period shall be cause for the revocation of the zoning permit, but only after prior written notice of each violation and thirty (30) days prior written notice of a hearing before the Zoning Board of Appeals on the question of revoking the zoning permit.

Add new text at 27.2.O

- O. Marihuana Growing Facility provided the requirements of Section 26.2.S are met.

SECTION 30 SPECIAL USE PERMITS

Add new text at 30.4.AD

- AD. Marihuana Club, Provided:

1. Marihuana Clubs are located only in R3-A, R3-B districts by special use permit.
2. State Law. A Marihuana Club shall at all times comply with the Michigan Medical Marihuana Act, MCL 333.26421 et seq and the Administrative Rules of

the Michigan Department of Community Health, as they may be amended from time to time.

3. Inspections. Quarterly inspections shall be made by the Township to confirm the Marihuana Club is operating in accordance with applicable laws.
4. Activity on Site. There shall be no transfer, delivery, acquisition, sale, ingestion, smoking or other consumption, of controlled substances, including marihuana, on the site.
5. Dwelling Unit. A Marihuana Club shall not be located on the same parcel as a dwelling unit.
6. Drive thru. Drive thru facilities are prohibited on a Marihuana Club site.
7. Dispersal and Spacing. For sites located in R3-A and R3-B zoning districts the parcel on which a Marihuana Club is located shall be situated at least one thousand (1000) feet from the parcel on which another Marihuana Club is located, as measured between property lines.
A Marihuana Club shall be situated at least five hundred (500) feet from a parcel on which a church, house of worship, school, licensed day care, community center or public park is located as measured between property lines. For purposes of this section a school shall be any public or private institution of learning, elementary through secondary (k-12) and any preschool.
8. Conditions. Prior to granting approval for a Marihuana Club, the planning commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the Marihuana Club which are necessary for the protection of the public interest.
9. Site Requirements.
 - a. Driveways and parking areas shall be as specified in 30.4.B.2.
 - b. Entrances and exits shall be as specified in 30.4.B.2.

c. Signage consistent with the Township's signage provisions of the zoning ordinance shall be allowed on the site

SECTION III - TITLE

This Ordinance shall be known and cited as the Charter Township of Union Ordinance Number 2011-03, Medical Marihuana Ordinance.

SECTION III - SEVERABILITY

The provisions, sections, sentences and phrases of this Ordinance are declared to be severable and if any such portion is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such finding shall in no way affect or invalidate the remainder of this Ordinance.

SECTION IV - EFFECTIVE DATE

This Ordinance will take effect immediately after publication.

John Barker, Supervisor

Peter Gallinat, Clerk