


MEMORANDUM

TO: Planning Commission
East Bay Charter Township

FROM: Jay Kilpatrick, AICP, PCP
Michael Clark, AICP 

DATE: February 14, 2011

RE: **Medical Marihuana Primary Caregiver Facilities**

Attached is a proposed zoning ordinance amendment for Planning Commission consideration. It would regulate medical marihuana primary care giver facilities in keeping with the Michigan Medical Marihuana Act (MMMA).

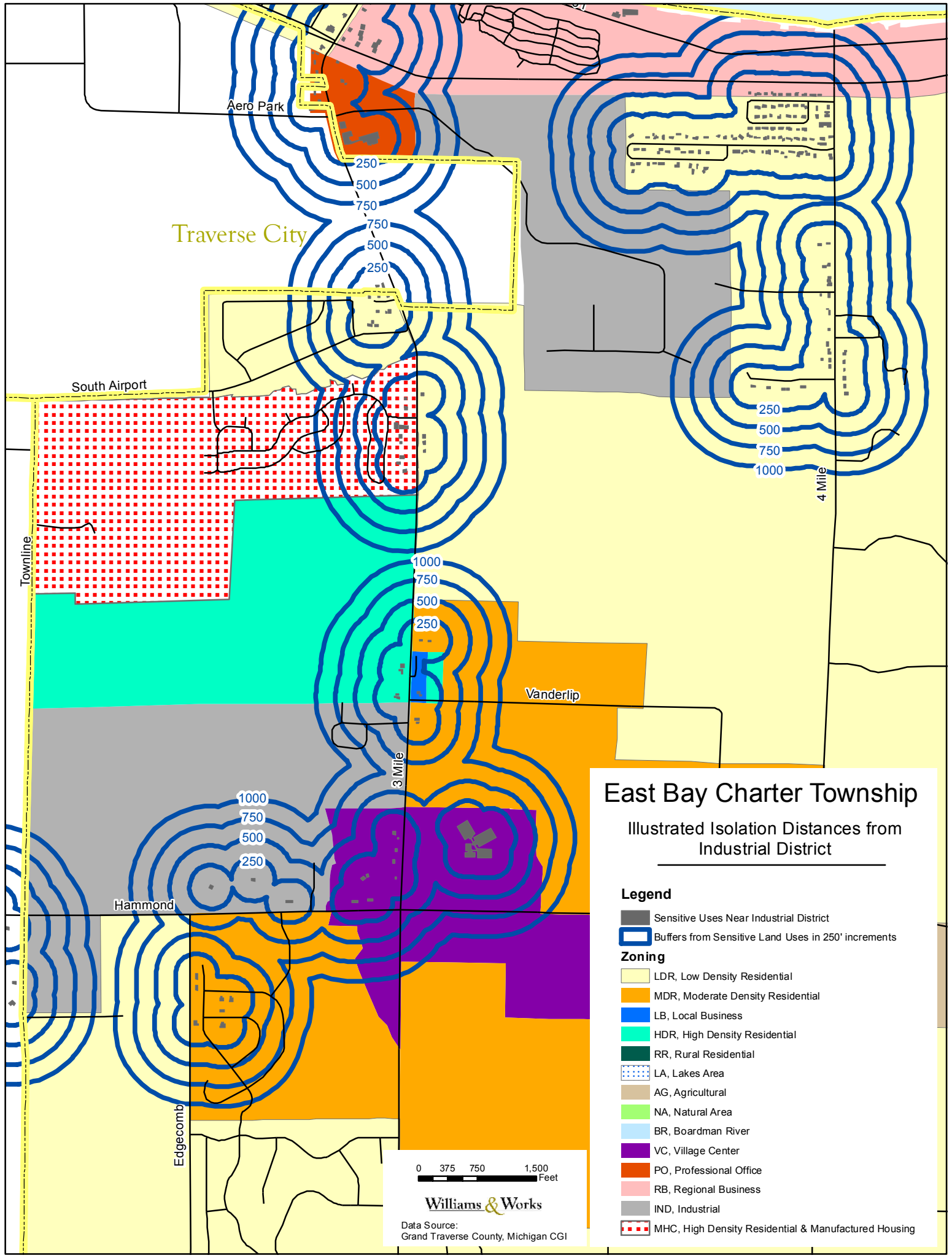
This amendment would regulate primary caregiver facilities as a use permitted by right only in the Industrial District and subject to location and operational standards which are outlined in a new Section 232 in General Provisions. Like other uses permitted by right in the Industrial District, these facilities would be reviewed and approved administratively under Section 820, 6, b. This procedure does not require public hearing in contrast to other site plan procedures in the Township. This factor will help to assure compliance with the confidentiality requirements of the MMMA.

This language will require that all medical marihuana in the facility to be kept in a secured and locked facility and not be kept outdoors. It also requires a 24-hour monitored security system and it restricts access to the facility to one primary caregiver. More importantly, these standards prohibit the dispensing or use of medical marihuana at the facility. Caregivers must deliver the marihuana to their qualified patients. Finally, these standards establish isolation distances of 1,000 feet from such sensitive uses as schools, homes and parks. We have provided a map that illustrates these isolation distances as well as other buffer distances that were considered.

The amendment also includes a few defined terms to coordinate with the MMMA and, of course, an amendment to the Industrial District to include this new permitted land use.

This amendment is scheduled for public hearing at the March 1st meeting. Following the hearing, the Planning Commission may approve the amendment and refer it to County Planning prior to forwarding it to the Township Board for adoption.

c: Leslie Couturier
Peter Wendling



East Bay Charter Township

Illustrated Isolation Distances from Industrial District

- Legend**
- Sensitive Uses Near Industrial District
 - Buffers from Sensitive Land Uses in 250' increments
- Zoning**
- LDR, Low Density Residential
 - MDR, Moderate Density Residential
 - LB, Local Business
 - HDR, High Density Residential
 - RR, Rural Residential
 - LA, Lakes Area
 - AG, Agricultural
 - NA, Natural Area
 - BR, Boardman River
 - VC, Village Center
 - PO, Professional Office
 - RB, Regional Business
 - IND, Industrial
 - MHC, High Density Residential & Manufactured Housing

0 375 750 1,500 Feet

Williams & Works

Data Source:
Grand Traverse County, Michigan CGI

East Bay Charter Township
Grand Traverse County
Ordinance # _____

AN ORDINANCE TO AMEND ARTICLE 2 GENERAL PROVISIONS, ARTICLE 4, SECTION 415 INDUSTRIAL DISTRICT AND ARTICLE 14 DEFINITIONS, OF THE EAST BAY CHARTER TOWNSHIP ZONING ORDINANCE.

EAST BAY CHARTER TOWNSHIP HEREBY ORDAINS:

1. Article 2, General Provisions is hereby amended to add the following Section 232:

SECTION 232. MEDICAL MARIHUANA PRIMARY CAREGIVER FACILITY

1. PURPOSE AND INTENT. It is the purpose of this section to give effect to the intent of Initiated Act 1 of 2008, the Michigan Medical Marihuana Act (the MMMA) and not to establish any local program of regulation that would violate or contravene any enforced State or Federal statute. The MMMA authorizes a narrow exception to the general rule and law that the cultivation, distribution and use of marihuana amount to criminal acts. It is the purpose of this Section to establish standards for the application of that narrow exception in East Bay Charter Township to enable the legitimate and legally-authorized practice of the Primary Caregiver activity as set forth herein. It is not the intent of this Section to broaden the strict interpretation of the MMMA to apply to activities not explicitly provided for therein nor is it the intent of this Section to encourage or sanction the cultivation, processing, refinement, distribution, transfer or use of marihuana except as permitted by a strict application of the terms of the MMMA and any rules or regulations duly promulgated thereunder.
2. FINDINGS. This Section is based on the following findings:
 - a. The voters of the State of Michigan approved by initiative and referendum the use of marihuana by Qualifying Patients for certain medical conditions and established as a legitimate activity that individuals with appropriate credentials may assist Qualifying Patients in the use of marihuana under the provisions of the MMMA.
 - b. Despite the provisions of the MMMA, marihuana remains a controlled substance under Michigan and Federal law and if its use is not carefully monitored and regulated, there exists significant potential for abuse and illegal conduct that can threaten the health, safety and welfare of the residents of East Bay Charter Township.
 - c. In other States where medical marihuana is similarly permitted but inadequately regulated, there are indications of significant negative secondary effects surrounding

places where marihuana is dispensed, processed or used by groups of people. Such secondary negative effects tend to be exacerbated where multiple marihuana facilities are located and include sale and use of other controlled substances, robberies, assaults, break-ins, vagrancy and depressed property values.

- d. East Bay Charter Township neither supports nor opposes the legitimate medicinal use of marihuana by Qualifying Patients in compliance with the MMMA, but finds that it has an obligation to residents and property owners to effectively mitigate potential secondary impacts that could result from the Primary Caregiver activity.
3. PERMITTED USE. The activities of a registered Primary Caregiver as defined in the MMMA and further regulated in this Section and a Primary Caregiver Facility as defined in this Ordinance, shall be a permitted land use exclusively in the Industrial Zoning District, subject to the land use permit requirements of Section 803, the site plan requirements of Section 820, 6, b, and the requirements of this Section.
 4. REGULATIONS. The use of land as a Primary Caregiver Facility and the activities of a Primary Caregiver shall comply with all of the following regulations:
 - a. Growing and Storage Facility. All marihuana shall be cultivated, processed, stored and packaged in an enclosed, locked and secured building at all times, except when it is being delivered to Qualifying Patients pursuant to paragraph “e” hereof. For the purpose of this Section, such facility shall consist of four solid walls and roof and no outdoor cultivation or storage shall be permitted. Such facility shall also be protected with a security system that is monitored continuously and access to the facility by other than the registered Primary Caregiver shall be prohibited. This provision shall not be construed to prevent access by non-registered individuals if accompanied by the registered Primary Caregiver.
 - b. Limits on Quantities. A Primary Caregiver shall not possess more marihuana than 2.5 ounces or 12 marihuana plants for each Qualifying Patient to which he/she is connected.
 - c. Combined Operations Prohibited. No more than one Primary Caregiver shall occupy any Primary Caregiver Facility.
 - d. Isolation Distance. A Primary Caregiver Facility shall be located no closer than 1,000 feet from any school, church, day care facility, park or dwelling. Such distance shall be measured in a straight line from the front door of the Primary Caregiver Facility to the building containing a school, church, day care facility, park or dwelling. A Primary Caregiver Facility shall be located no closer than 300 feet from any other Primary Caregiver Facility.
 - e. Dispensing Medical Marihuana. No medical marihuana shall be dispensed by the Primary Caregiver to Qualifying Patients at the Primary Caregiver Facility. The Primary Caregiver shall deliver small quantities, not to exceed 2.5 ounces per Qualifying Patient, for the use of such Qualifying Patient and such delivery shall take place on private property away from public view. Any delivery vehicle used for such

purposes shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo.

- f. **Prohibited Activities.** A Primary Caregiver Facility shall not be used as a medical marihuana dispensary or compassion club and no smoking or otherwise ingesting of medical marihuana shall be permitted on site. A Primary Caregiver Facility shall not bear any sign or emblem that would indicate the nature of the activity on site and any advertising a Primary Caregiver undertakes shall not disclose the location of the Primary Caregiver Facility.

2. **Article 4, Section 415 is hereby amended to add the following permitted use to the listing in Subparagraph 1 and Subparagraph 2:**

Primary Caregiver Facility, pursuant to Section 232.

3. **Article 14, Definitions, Section 1414 is hereby amended to add the following defined term in alphabetical order:**

MARIHUANA. A controlled substance as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

4. **Article 14, Definitions, Section 1417 is hereby amended to add the following defined terms in alphabetical order:**

PRIMARY CAREGIVER. A person who is at least 21 years old and who has been registered by State Department of Community Health to assist with a Qualifying Patients' use of medical marihuana.

PRIMARY CAREGIVER FACILITY. A building in which the activities of a Primary Caregiver as defined in the Michigan Medical Marihuana Act (Initiated Act 1 of 2008) and in this Ordinance are conducted.

5. **Article 14, Definitions, Section 1418 is hereby amended to add the following defined term:**

QUALIFYING PATIENT. A person 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 Community Health as provided by said Act.

6. **Severability.**

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences

or clauses be declared invalid.

7. Effective Date.

This Ordinance shall become effective eight (8) days after publication.

CHARTER TOWNSHIP OF EAST BAY

Date: _____

By: _____

Glen Lile, Supervisor

Date: _____

By: _____

Susanne M. Courtade, Clerk

Published Date: _____, 2010

Effective Date: _____, 2010