

**NEW BUFFALO TOWNSHIP
ORDINANCE NO. ____**

**AN ORDINANCE TO AMEND THE TOWNSHIP ZONING ORDINANCE TO
REGULATE MEDICAL MARIHUANA FACILITIES AND ADULT-USE MARIHUANA
ESTABLISHMENTS**

NEW BUFFALO TOWNSHIP ORDAINS:

**Section 1. Adoption of New Article 2.2.11, Marihuana Business Overlay
District**

New Article 2.2.11 is hereby added to the Zoning Ordinance and reads as follows:

PURPOSE

This Overlay District is intended provide suitable locations for medical marihuana facilities and adult-use marihuana establishments that are otherwise authorized under state law and the Township's Code of Ordinances and Zoning Ordinance, taking into account neighboring land uses, natural resources, and quiet, comfort, and repose of the community.

**Article 2.2.11. DELINEATION OF THE MARIHUANA BUSINESS OVERLAY
ZONE**

- A. The Marihuana Business Overlay Zone overlays existing zoning districts delineated on the official New Buffalo Township Zoning Map. The boundaries of the Marihuana Business Overlay Zone are depicted on **Map A**, incorporated herein by reference, and are generally described as follows:
1. Provisioning centers/retailers and microbusinesses are permitted as special land uses in the portions of the C-1 and Industrial Districts located on each side of US 12 from the City of New Buffalo city limit to the state line and each side of Grand Ave. Grow, processors, and secure transporters are permitted as special land uses in the Industrial Districts located on each side of US 12 from the City of New Buffalo city limit to the state line. This is comprised of approximately 500 feet in depth measured from the lot line at the road.
 2. Provisioning centers/retailers and microbusinesses are permitted as special land uses in the portions of the C-1 and C-2 zoning districts located on each side of US 12 from the east side of I-94 at Exit 4 to Hoder Road. This is comprised of approximately 500 feet in depth measured from the lot line at the road.
 3. Provisioning centers/retailers and microbusinesses are permitted as special land uses in the portions of the C-1 and C-2 zoning districts located on each side of Harbor Country Drive and M-239 from Holiday Drive to the state line, including

the south side Holiday Drive to Kinst Road and O'Brien Ct. This is comprised of approximately 500 feet in depth measured from the lot line at the road.

- B. To the extent the above general descriptions conflict with Map A, the boundaries depicted on Map A control. If there are disputes as to the location of a Marihuana Business Overlay Zone boundary, the Zoning Board of Appeals will resolve the dispute in accordance with the Zoning Ordinance.
- C. In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this Article is required for all development occurring within the Marihuana Business Overlay Zone.

Article 5.22.2. PERMITTED USES.

There are no uses permitted by right in the Marihuana Business Overlay Zone, other than uses permitted by right in the underlying zoning districts.

Article 3.2. SPECIAL LAND USES.

The following uses are permitted following approval by the Planning Commission as a Special Land Use and as regulated by Article 8:

- A. Medical marihuana facilities authorized under the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27102 *et seq.*, subject to Ordinance No. _____ and this Zoning Ordinance.
- B. Marihuana establishments authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, subject to Ordinance No. _____ and this Zoning Ordinance.

Section 2. Amendment of Article 2.1 of the Zoning Ordinance

Article 2.1 of the Zoning Ordinance, entitled "Districts Established," is amended to add a new row as follows:

CURRENT DISTRICT DESIGNATION		PREVIOUS ORDINANCE DESIGNATION	
M	Marihuana Business Overlay	N/A	N/A

Section 3. Addition of New Article

Article 5.22.1 entitled "Marihuana Businesses," is hereby added to the Township Zoning Ordinance and reads as follows in its entirety:

Article 5.22.1 Marihuana Businesses.

In addition to all requirements of Ordinance No. _____, Article 8 and any other requirements of this Zoning Ordinance or Township Ordinances, and any conditions imposed by the Planning Commission in granting special use approval, all medical marihuana facilities and adult-use marihuana establishments must comply with the following requirements. All terms defined in Ordinance No. _____ have the same meaning when used in this section.

1. Medical marihuana facilities must comply with the MMMFLA and the MMMFLA rules, as well as any other applicable state laws or regulations.
2. Adult-use marihuana establishments must comply with MRTMA and the MRTMA rules, as well as any other applicable state laws or regulations.
3. Equivalent licenses are permitted, if approved by the State of Michigan.
4. Co-located facilities or establishments are permitted, subject to the following requirements:
 - a. The co-location must be approved by the State of Michigan
 - b. A maximum of one of each license type may operate on a single parcel. By way of example and not limitation, this provision allows one adult-use grower and one adult-use retailer to be co-located on the same parcel, but it does not allow two adult-use retailers to be co-located on the same parcel. For purposes of this subsection, “parcel” means a parcel designated on the Township’s assessment roll for property tax purposes, regardless of the number of street addresses assigned to the parcel or the number of buildings or units on the parcel.
5. Stacked grower licenses are prohibited.
6. Facilities and establishments shall be sufficiently screened or buffered with a fence, wall, or landscape screen to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
7. Special use applicants must provide a plan for the storage and disposal of marihuana or chemicals associated with marihuana cultivation, so as to minimize the risk of theft or harm resulting from chemical exposure. This plan must be included with the site plan application.
8. No marihuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marihuana overnight in an outdoor waste bin or a secure transport vehicle parked outdoors.

9. Signage for facilities and establishments may be approved pursuant to the standards provided in Article 4.4, with the additional restriction that facility signage may not depict marihuana, marihuana-infused products, or marihuana-related paraphernalia.
10. Marihuana facilities and establishments must control and eliminate odor as follows:
 - a. Any building in which marihuana is stored, processed, or located must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system.
 - b. The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fan(s) must 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 air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufacturers' recommendation to ensure optimal performance.
 - d. Negative air pressure must be maintained inside the building.
 - e. Doors and windows must 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 a report by a mechanical engineer licensed in the state of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.
11. The following minimum-distancing regulations apply:
 - a. A facility or establishment may not be located within 1,000 feet of an existing public or private K-12 school; a church; a licensed daycare center; or a public library. This distance is computed by measuring a straight line between the two closest points of any buildings on the subject parcels.
 - b. A facility or establishment may not be on a parcel that abuts the R-1, R-2, Ag-R or MR zoning districts within the Township. For purposes of this subsection, a parcel does not abut a zoning district if a railroad or state highway separates the parcel from the zoning district.

- c. A provisioning center or retailer may not be located within 150 feet of an existing one-family or multiple-family dwelling unless the owner of the dwelling completes an application for a waiver as part of the special land use process and records the waiver with the Berrien County Register of Deeds. This distance is computed by measuring a straight line between the two closest points of the dwelling building and the provisioning center or retailer building.

12. The following additional requirements apply to **provisioning centers and retailers**:

Operational Requirements

- a. Provisioning centers and retailers may not be open to customers between the hours of 9:00 p.m. and 9:00 a.m.
- b. Provisioning centers and retailers may not receive deliveries between the hours of 8:00 p.m. and 7:00 a.m.
- c. The interior of the facility must be arranged in a way such that neither marihuana nor marihuana-infused products are visible from the exterior of the facility.
- d. Consumption of marihuana shall be prohibited in the retail facility, and a sign shall be posted on the premises of each retail center indicating that consumption is prohibited on the premises.
- e. Provisioning centers and retailers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a minimum period of 14 days.
- f. Provisioning centers and retailers shall install, maintain, and consistently use a security alarm system that meets industry standards for building and inventory security.
- g. The public or common areas of the provisioning center or retailer must be separated from restricted or non-public areas.
- h. No drive-through window on the portion of the premises occupied by a provisioning center or retailer shall be permitted.
- i. Provisioning centers and retailers shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

Design Requirements

- j. *Façades.* Façades that face streets or connecting pedestrian frontage shall be subdivided and proportioned using features such as windows, entrances, arcades, arbors, or awnings along no less than fifty percent of the façade.
1. The following additional requirements apply to **microbusinesses and Class A microbusinesses**:
- a. Microbusinesses may not be open to customers between the hours of 9:00 p.m. and 9:00 a.m.
 - b. Microbusinesses may not receive deliveries between the hours of 8:00 p.m. and 7:00 a.m.
 - c. The exterior appearance of a microbusiness must be compatible with surrounding businesses with respect to façade type, ground floor opacity, size and placement of signage, site layout, etc.
 - d. The interior of the establishment must be arranged in a way such that neither marihuana nor marihuana-infused products are visible from the exterior of the establishment.
 - e. Consumption of marihuana shall be prohibited in the establishment, and a sign shall be posted on the premises of each microbusiness indicating that consumption is prohibited on the premises.
 - f. Microbusinesses shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days.
 - g. Microbusinesses shall install, maintain, and consistently use a security alarm system that meets industry standards for building and inventory security.
 - h. The public or common areas of the microbusiness establishment must be separated from restricted or non-public areas of the marihuana establishment.
 - i. No drive-through window on the portion of the premises occupied by a microbusiness establishment shall be permitted.

- j. Microbusinesses shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
 - k. Cultivation must occur within an enclosed building with exterior facades consisting of opaque materials typical of an industrial or commercial building. The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or rigid polycarbonate or fiberglass panels. Films or other non-rigid materials cannot be used to construct any component of the building's exterior structure.
 - l. Cultivation must be conducted in a manner to minimize adverse impacts on the Township's sanitary sewer system.
13. The following additional requirements apply to **growers**:
- a. Cultivation must occur within an enclosed building with exterior facades consisting of opaque materials typical of an industrial or commercial building. The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or rigid polycarbonate or fiberglass panels. Films or other non-rigid materials cannot be used to construct any component of the building's exterior structure.
 - b. Cultivation must be conducted in a manner to minimize adverse impacts on the Township's sanitary sewer system.
14. The following additional requirements apply to **processors**:
- a. Processing must be conducted in a manner to minimize adverse impacts on the Township's sanitary sewer system.
15. The following additional requirements apply to **safety compliance facilities**:
- a. Operations must be conducted in a manner to minimize adverse impacts on the Township's sanitary sewer system.
16. Special Use Permit Specific to Applicant.
- a. Any special use permit granted for a medical marijuana facility or an adult-use establishment is unique and specific to the applicant and does not run with the land. The special use permit may be transferred to another medical marijuana facility only with Township approval and subject to Ordinance No. _____.
17. Violations; Remedies; Revocation.

Notwithstanding any other provision in this Zoning Ordinance to the contrary, penalties for violations of this subsection shall be as follows:

- a. If at any time an establishment or facility violates the Zoning Ordinance, any condition imposed through a special use permit, or any other applicable Township ordinance or state law or regulation, the Township may take any or all of the following actions:
 - a. The Township may request that LARA revoke or refrain from renewing the facility or establishment's state operating license.
 - b. Following notice and a public hearing, the Township may revoke the facility or establishment's special use permit.
 - c. The Township may treat the violation as a municipal civil infraction, for which each day the violation continues will be a separate offense, and impose the following fines:

First violation = \$500

Second offense = \$2,500

Each subsequent offense = \$5,000
 - d. The Township may seek other appropriate and proper remedies, including actions in law or equity.

Section 4. Publication and Effective Date.

The Township Clerk will cause to be published a notice of adoption of this ordinance within 15 days of the date of its adoption. This ordinance will take effect 30 days after publication.

Section 5. Severability; Repeal of Prior Ordinances.

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance. Any ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

YEAS: Board Member(s) _____
NAYS: Board Member(s) _____
ABSTAIN: Board Member(s) _____
ABSENT: Board Member(s) _____

CERTIFICATION

As the Township Clerk of the Township of New Buffalo, Berrien County, Michigan, I certify this is a true and complete copy of an ordinance adopted by the Township Board at a regular meeting held on _____, _____.

Date: _____, 2023

Township Supervisor

Date: _____, 2023

Township Clerk

Introduced: _____, 2023

Adopted: _____, 2023

Published: _____, 2023

Effective: _____, 2023

MAP A

[Insert Overlay Map]

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