

Charter Township of Vienna
Amendment to Special Use Provisions of Zoning Ordinance to Regulate Medical
Marihuana Dispensaries
Ordinance 400
Adopted: April 4, 2011
Effective: April 14, 2011

Article I - Statement of Purpose

The purpose of this Ordinance is to amend Article 22 of the **Charter Township of Vienna Zoning Ordinance** to:

- A. Regulate and control, but not to exclude, the growing, consumption, distribution, and delivery of medical marihuana in a manner that protects the rights of those authorized to do so under Michigan's **Medical Marihuana Act**, being **MCL 333.26421 et. seq.**; and
- B. Provide registered patients safe access to medicine; and
- C. Protect the health, safety, and welfare of all residents of the Township.

Article II - Amendment to Charter Township of Vienna Zoning Ordinance

Article 22 of the current **Charter Township of Vienna Zoning Ordinance** is hereby amended, and the following **Section 2211** is inserted into the **Charter Township of Vienna Zoning Ordinance**:

SECTION 2211: *Medical Marihuana Facilities* A.

Standards:

1. *Patient Care Center:* The construction and operation of every Patient Care Center in the Charter Township of Vienna is permitted only by Special Land Use Permit, granted in accordance with Article 22 of the **Charter Township of Vienna Zoning Ordinance**, in the **Local Commercial District (C-1)**, **General Commercial District (C-2)**, **Shopping Center District (C-3)**, **Highway Commercial District (C-4)**.

2. *Home Care Center:* The construction and operation of every Home Care Center in the Charter Township of Vienna is permitted in the **One-Family Residential Suburban District (RSA)**; **One-Family**

Residential Urban District (RU-1); and Agricultural Residential District (AR).

3. The development and locational standards set forth herein will be used by the **Planning Commission** to determine if the application satisfies the conditions that are precedent to the approval of a **Special Land Use**.

B. Definitions:

1. **Statutory Definitions:** The words and phrases used herein have the same meaning as set forth in the Michigan Medical Marihuana Act, **MCL 333.26421 et seq.**, except as set forth herein.

2. **Applicant** means the person who applies for a permit for a Patient Care Center.

3. **Consumption** means absorbing, smoking, inhaling, eating, vaporizing, and drinking.

4. **Building** means any permanent structure having a roof or other covering that is built, used, designed, or intended for the enclosure of persons, animals, chattel, or property of any kind.

5. **Enclosed, Locked Facility** means a closet, room, or other enclosed area, which may be Indoors or Outdoors, that is equipped with locks or other security devices.

6. **Home Care Center** means a facility, located at a Primary Caregiver's residence, that is operated by not more than 1 Primary Caregiver.

7. **Marihuana** means all parts of the plant *Cannabis Sativa L.*, growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin including soaps, balms, cooking oils, pastes, essential oils, teas, butters, and tinctures. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

8. *Medical Marihuana Facility* means a Home Care Center or a Patient Care Center.

9. *Outdoor Enclosed, Locked Facility* means any Enclosed, Locked Facility that is not located inside of a Building.

10. *Parcel* means that property which is identified by a single parcel number by the Vienna Township Treasurer.

11. *Patient Care Center* means a facility established by one or more Primary Caregivers, not located at a Primary Caregiver's residence.

12. *Person* means any individual, partnership, corporation, association, or limited liability company.

8. *Physical Improvement* means the improvement of real property using construction materials constructed in a manner that complies with **Section 2010** of the **Township Zoning Ordinance** and all provisions of the **Township Building Ordinances, Section 6-1 et seq.**

9. *Planning Commission* means the Charter Township of Vienna Planning Commission.

10. *Primary Caregiver* means a person who is at least 21 years old, who has agreed to assist with a patient's Medical Use of Marihuana, who has never been convicted of a felony involving illegal drugs, and who possesses a Registry Identification Card, which is not expired and has not been revoked.

8. *Qualifying Patient* means a person who has been diagnosed by a physician as having a debilitating medical condition and who has been issued a Registry Identification Card by the Department, which is not expired and has not been revoked.

8. *Registry Identification Card* means a document issued by the State Department of Community Health that identifies a person as a registered Qualifying Patient or registered Primary Caregiver.

11. *Township* means the Charter Township of Vienna, Genesee County, Michigan.

12. *Township Board* means the Township Board of Trustees.

C. Procedure for Issuance of Special Land Use Permit:

1. **Application for Permit:** An application for a permit must be completed by the Applicant in conformance with **Article 22** of the **Charter Township of Vienna Zoning Ordinance**.

2. **Application Review:** The Planning Commission must:

- a. Review the application for the special land use permit;
- b. Make a finding as to whether the use as set forth and described in the application for the special land use permit complies with the requirements of the **Charter Township of Vienna Zoning Ordinance**, as amended by this Amendment, and with statutes of the State of Michigan; and
- c. Submit to the Township Board its recommendation as to whether the special land use permit should be approved.

3. **Public Hearing:** Upon receipt by the Township Board of the recommendation of the Planning Commission, the Township Clerk must add to the Township Board agenda, and the Township Board must conduct, a public hearing on the Application for Special Land Use Permit, in conjunction with the Hearing on the Application by Applicant for a License, in accordance with the provisions of the Township's Medical Marijuana License Ordinance, and:

- a. Review the application for the special land use permit (in conjunction with its review of the Application for a License);
- b. Make a finding as to whether the use as set forth and described in the application for the special land use permit complies with the requirements of the **Charter Township of Vienna Zoning Ordinance**, as amended by this Amendment, and with statutes of the State of Michigan; and
- c. Determine whether the special land use permit should - be granted (in conjunction with its determination of whether the _ Application for License should be granted).

D. Patient Care Center Requirements: A Patient Care Center must be located and operated in accordance with the following requirements:

1. ***Special Land Use Requirement:*** No Patient Care Center may be operated in Charter Township of Vienna, except in accordance with this **Section 2211** of the **Charter Township of Vienna Zoning Ordinance** and unless a permit for special land use has been granted in accordance with Article 22 of the **Charter Township of Vienna Zoning Ordinance**.

2. ***Population Limitations:*** Only 1 Special Land Use Permit may be issued pursuant to this Ordinance for every 3,000 of population, or fraction thereof as determined by any of the following:

- a. Federal decennial census;
- b. Special census taken pursuant to **MCL 141.907**; or
- c. Latest population estimates and projections prepared by the United States department of commerce, social, and economic statistics administration, bureau of the census.

3. ***Waiver of Population Limitation:*** The quota requirement described in **Paragraph D(2)** may be waived at the discretion of the Township Board if there is no existing medical marihuana special land use permit issued within a 2 mile radius of the Applicant's proposed location, measured along the nearest traffic route, of the applicant.

4. ***Location:*** No Patient Care Center is permitted on any of the following:

- a. On a Parcel of Property of which any lot line is within 300 feet of any lot line of a Parcel of Property upon which is located any principal or accessory structure of another Patient Care Center;
Or
- b. On a Parcel of Property of which any lot line is within 300 feet of any lot line of a Parcel of Property upon which is situated any single or multiple family residence, public park, school, child care facility, church or place of worship; or
- c. On a Parcel of Property of which any portion is situated within the following zoning districts: Agricultural Residential District (AR); One-Family Residential Suburban (RSA); One-Family Residential Urban (RU-1); Multiple Family Residential (RM); Multiple Family Condominium Residential (RMC); Mobile Home Park District (MHP), Office Service Transition District

(OST), Office Research District (OR), Limited Industrial District (I1), General Industrial District (I-2), or Vehicular Parking District (P-1).

5. **Entrances:** Entrances to a Patient Care Center must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than 2 inches in height that:

a. "Only persons with Registry Identification Cards may enter"; and

b. "No alcoholic beverages of any type are permitted within the Patient Care Center".

6. **Off-Street Parking:** All off-street parking of a Patient Care Center must comply with the following:

a. All off-street parking must comply with the provisions of **Article 19** of the **Charter Township of Vienna Zoning Ordinance**; and

a. All off-street parking areas must be illuminated during all hours of operation and until one hour after the business closes.

7. **Advertisements:** Advertisements, displays or other promotional materials of a Patient Care Center must not be shown or exhibited so as to be visible to the public, from pedestrian sidewalks or walkways, or from other areas, public or semi-public; and such displays are considered signs.

8. **Signs and Billboards:** The sign or billboard of a Patient Care Center must not contain the word "marihuana," any variation thereof, or any other synonym for marihuana on any sign or billboard of the business; additionally, no symbol or image relating to the use of marihuana may be displayed on any sign or billboard of the business.

9. **Screened Openings:** All building openings, entries, windows, and any other portion of the building as required by the Planning Commission, of a Patient Care Center must be located, covered, or screened in such a manner as to prevent a view into the interior from any public or semi-public area.

E. **Home Care Center Requirements:** A Home Care Center must be operated in accordance with the following requirements:

1. **Signs and Advertisements:** A Home Care Center is not permitted to install any exterior or interior sign, billboard, or advertisement for any purpose.

2. **Outdoor Enclosed, Locked Facility Requirements:** Any Outdoor Enclosed, Locked Facility located within the Township is subject to the following requirements:

a. **Zoning District:** An Outdoor Enclosed, Locked Facility must not be located on a Parcel of Property of which any portion is situated within the following zoning districts: One-Family Residential Suburban (RSA); One-Family Residential Urban (RU-1); Multiple Family Residential (RM); Multiple Family Condominium Residential (RMC); Mobile Home Park District (MHP); Office Service Transition District (OST); Office Research District (OR); Local Commercial District (C-1); General Commercial District (C-2); Shopping Center Commercial District (C-3); Highway Commercial District (C-4); Limited Industrial District (I-1); General Industrial District (I-2); and Vehicular Parking District (P-1).

b. **Location:** An Outdoor Enclosed, Locked Facility must be located on a Parcel of Property such that the Outdoor Enclosed, Locked facility is at least 100 feet from the dwelling unit or 100 feet from the lot line of the Parcel of Property; and

c. **Construction:** An Outdoor Enclosed, Locked Facility must be constructed such that it is , an immovable Physical Improvement that makes the enclosed area secure and inaccessible to any person other than the Qualify Patient or the Primary Caregiver and the Primary Caregiver's Qualifying Patients.

G. **Zoning Standards:** A Medical Marihuana Facility must conform to all standards of the zoning district in which it is located.

H. **Other Standards:** A Medical Marihuana Facility must meet all applicable written and duly promulgated standards of the Township and of other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained.

I. Compliance: At all times a person must comply with all Federal, State, and local the rules, regulations, and ordinances.

Article III - Effective Date

This Ordinance becomes effective the 14th day of April 2011, following publication thereof in the Genesee County Herald, a newspaper circulating within Charter Township of Vienna.

CERTIFICATION:

We, the undersigned, being respectively the Township Supervisor and Township Clerk of Vienna Charter Township, Genesee County, Michigan, do hereby certify that the above Charter Township of Vienna Ordinance No. 400 was duly adopted by the Township Board of the Charter Township of Vienna, at which meeting a quorum was present.

Paul Luttenbacher, Chairman/Treasurer

Dick Scott, Clerk