

CITY OF MANISTEE PLANNING COMMISSION

WORKSESSION AGENDA

**Thursday, September 16, 2010 7:00 p.m.
Council Chambers, City Hall
70 Maple Street, Manistee, Michigan**

I Call to Order.

II Worksession Items:

1. Goals & Priorities
2. Misc.

III Adjourn.

All Planning Commission Meetings and Worksessions are open to the Public.

Worksessions are scheduled to allow the Planning Commission the opportunity to discuss in a less formal manner than a regular meeting. No motions or decisions can be made during a worksession.



PLANNING AND ZONING
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MEMORANDUM

TO: Planning Commissioners
FROM: Denise Blakeslee
DATE: September 9, 2010
RE: September 16, 2010 Worksession

Commissioners, Summer is nearing an end and the kids are all back to school. We once again we begin our monthly worksessions. This month we work on prioritizing the various issues that are pending (i.e. Master Plan, Ordinance Amendments, etc).

If you are unable to attend the worksession please call me at 398-2805. See you Thursday!!

:djb

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ANN ARBOR, MICHIGAN

TUESDAY, SEPTEMBER 14, 2010

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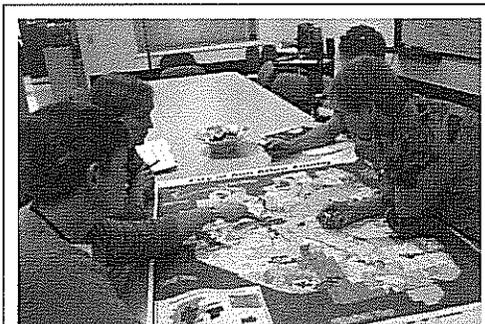
Licensing or Zoning for Medical Marijuana?

Ann Arbor city attorney, planning staff pursuing dual tracks

BY MARY MORGAN

SEPTEMBER 13, 2010

At the Aug. 5, 2010 meeting of the Ann Arbor city council, councilmembers considered a resolution originally drafted by city attorney Stephen Postema to impose a temporary moratorium on the dispensing and growing of medical marijuana. The city council ultimately passed a modified version of the moratorium, with exemptions for patients and caregivers, a grandfathering-in of existing facilities in the city and a reduction in the length of the moratorium from 180 to 120 days. The moratorium ends Dec. 3.



Ann Arbor planning staff and members of the planning commission's ordinance revisions committee discuss existing zoning areas and implications of ordinance changes at their Sept. 13 meeting. Clockwise from left: Wendy Rampson, Jill Thacher, Kirk Westphal, Jean Carlberg. (Photo by the writer.)

The resolution passed by the council also directed the city staff and planning commission to look at possible zoning ordinance changes, with the intent of regulating medical marijuana in Ann Arbor. The resolution does not mention other regulatory approaches, such as licensing.

Since then, the city's planning staff and the ordinance revisions committee of the planning commission have been developing recommendations to change the city's zoning code. The changes would regulate medical marijuana dispensaries as well as marijuana grown by registered caregivers as a "home occupation."

At a Monday, Sept. 13 meeting of the ordinance revisions committee, the group mentioned a parallel track that's being pursued by the city attorney's office: licensing of medical marijuana dispensaries. Wendy Rampson, head of the city's planning department, said that Postema has also been working with the Michigan Association of Municipal Attorneys regarding an approach to licensing medical marijuana. Postema is president of that group.

The development of a licensing approach to regulate medical marijuana was not a directive given in council's Aug. 5 resolution – only zoning was addressed:

RESOLVED, That City Council hereby imposes a temporary moratorium prohibiting the initiation or expansion of the use of any property in the City as a facility for dispensing marihuana for medical and any other purpose and for cultivating marihuana plants, and that any zoning compliance permits or building and trade permits for such uses be deferred for a period of 120 days from the date of this resolution, in conjunction with the study and revision of the City's Zoning Ordinance or other ordinances regarding this issue;

RESOLVED, That this moratorium does not apply to the following:

- A dwelling unit (as defined by the Zoning Ordinance) where a qualifying patient under the Act resides and is cultivating up to the maximum number of marihuana plants permitted by the Act for personal use or possesses up to the maximum amount of marihuana permitted by the Act for personal use.
- A building or structure (as defined by the Zoning Ordinance) other than a dwelling unit where no more than one qualifying patient under the Act is cultivating up to the maximum number of marihuana plants permitted by the Act for personal use or possesses up to the maximum amount of marihuana permitted by the Act for personal use.
- A dwelling unit or other building or structure where no more than one primary caregiver under the Act is cultivating up to the maximum number of marihuana plants permitted by the Act for assisting a qualifying patient or possesses up to the maximum amount of marihuana permitted by the Act for assisting a qualifying patient.

RESOLVED, That City Council directs City staff and the Planning Commission to study and make specific recommendations for ordinance amendments that restrict facilities for dispensing marihuana to appropriate zoning districts along with spacing requirements, and to also regulate such use in residential districts;

RESOLVED, That the moratorium imposed by this resolution shall expire the earlier of 120 days from its effective date or upon adoption by City Council of ordinance amendments regarding the issue of facilities for dispensing marihuana and/or cultivating plants for medical or any other purposes.

Ordinance Revisions Committee: Possible Zoning Changes

The ordinance revisions committee has met three times over the past month, most recently on Monday, Sept. 13. The committee consists of four planning commissioners: Bonnie Bona, Jean Carlberg, Eric Mahler and Kirk Westphal. Possible zoning changes are being drafted by Jill Thacher of the city's planning staff, with input and feedback from the committee.

Monday's meeting was attended by Carlberg, Westphal, Thacher and Wendy Rampson, head of city planning. The group discussed several possible changes [still in draft form] to the city code.

Regarding location:

- No medical marijuana dispensary shall be located on a parcel within 200 feet of a residential district, and shall be located only in D1, D2, C2, C3, M1 or M2 (downtown, commercial and light industrial) zoning districts.
- No medical marijuana dispensary shall be established within 500 feet of another medical marijuana dispensary.
- No medical marijuana dispensary shall be located within 1,000 feet of a parcel on which a public school is located.

Regarding the use of medical marijuana dispensaries:

- No person shall reside in or permit any person to reside in the premises of a medical marijuana dispensary, except as allowed in the M (light industrial) zoning districts.
- No person operating a medical marijuana dispensary shall permit any person under the age of 18 to be on the premises.
- The operator of a medical marijuana dispensary must be a registered caregiver.
- No person shall become the lessee or sub-lessee of any property for the purpose of using said property for a medical marijuana dispensary without the express written permission of the owner of the property for such use and a zoning compliance permit from the city of Ann Arbor.
- In D1 zoning districts, medical marijuana may be dispensed, but not grown.
- Odors may not leave the unit occupied by the medical marijuana dispensary.
- No drive-through windows are allowed at a medical marijuana dispensary.
- No on-site smoking or consumption is allowed at a medical marijuana dispensary.

Regarding medical marijuana as a "home occupation":

- One registered caregiver per single-family home is limited to providing medical marijuana to five patients. Caregivers may not give, sell, or otherwise transfer medical marijuana to anyone other than the five patients that have designated them as their caregiver through the Michigan Dept. of Community Health.
- Caregivers must deliver to patients – no pickups are allowed from a caregiver's house.
- An annual zoning compliance permit is required.
- Odors may not leave the property.

The decision has been made to treat medical marijuana as a separate, standalone section in the city code, Rampson said, similar to the section on adult entertainment uses in Chapter 55, Article III, Section 5:50 of the city code.

During Monday's meeting, Thacher – who because of this task has become somewhat of an expert on the Michigan Medical Marijuana Act of 2008, which was approved by Michigan voters – said that under these draft recommendations, 431 parcels in the city could be eligible to be used for a medical marijuana dispensary.

The group discussed possible ways to limit the size of a dispensary, such as regulating a minimum amount of parking.

Carlberg asked whether the city knows how many registered caregivers there are in Ann Arbor. Thacher reported that the state won't release information about registered caregivers or patients.

Rampson clarified that the only way to know would be if there's a licensing requirement in the city. Similar to the process of getting a liquor license, a license to operate a medical marijuana dispensary could require inspections for fire safety and building code compliance, as well as a criminal background check, she said. And if the city adopts a licensing approach, that would likely mean that some of the zoning changes being discussed wouldn't be necessary.

Westphal noted that if a dispensary is regulated through zoning and is compliant with zoning ordinances, there's no way to shut it down – even if it's causing problems in the surrounding area. Earlier in the meeting the group had discussed the cost of medical marijuana – more than \$300 per ounce – and Carlberg had commented that it could create a crime zone around the dispensaries.

Westphal said that licensing is a great idea, and would give the city more control over these dispensaries.

At the end of Monday's meeting, Thacher said she would put together the draft recommendations for the full planning commission to discuss at their working session on Tuesday, Sept. 14. The goal is to draft a resolution that could be posted on the city's website on

Wednesday as part of the planning commission's agenda for its Sept. 21 meeting, when a public hearing on the ordinance changes is planned.

Section: Business, Govt.

The following terms describe the content of this article. Click on a term to see all articles described with that term: Ann Arbor City Council, Ann Arbor planning commission, city attorney, medical marijuana, moratorium, zoning ordinance

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2 Comments

1.

 BY JILLIAN GALLOWAY
SEPTEMBER 14, 2010 AT 6:55 AM | PERMALINK

\$13 billion is spent on marijuana every year in the U.S., and because of the federal prohibition *every* dollar of it goes straight into the hands of criminals. Far from preventing people from using marijuana, the prohibition instead creates zero legal supply amid massive and unrelenting demand. The scale of the harm this causes far exceeds any benefit obtained from keeping marijuana illegal.

According to the ONDCP, at least sixty percent of Mexican drug cartel money comes from selling marijuana in the U.S., they protect this revenue by brutally torturing, murdering and dismembering countless innocent people.

If we can STOP people using marijuana then we need to do so NOW, but if we can't then we must legalize the production and sale of marijuana to adults with after-tax prices set too low for the cartels to match. One way or the other, we have to force the cartels out of the marijuana market and eliminate their highly lucrative marijuana incomes – no business can withstand the loss of sixty percent of its revenue!

To date, the cartels have amassed more than 100,000 "foot soldiers" and operate in 230 U.S. cities, and it's now believed that the cartels are "morphing into, or making common cause with, what would be considered an insurgency" (Secretary of State Clinton, 09/09/2010). The longer the cartels are allowed to exploit the prohibition the more powerful they'll get and the more our own personal security will be put in jeopardy.

2.

 BY PABLO KOH
SEPTEMBER 14, 2010 AT 9:39 AM | PERMALINK

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The City of Traverse City

Communication to the City Commission

FOR THE CITY COMMISSION MEETING OF AUGUST 16, 2010

DATE: AUGUST 12, 2010

FROM: MAKAYLA M. VITOUS, ACTING CITY MANAGER ^{mw}

SUBJECT: ORDINANCE AMENDMENTS – MEDICAL MARIHUANA

Attached is a memo from Russell Soyring, City Planning Director, explaining the attached ordinance amendments regulating medical marihuana which have been revised as a result of the Commission comments made at the time of introduction.

If these ordinance amendments are enacted, license and annual inspection fees are recommended for the license requirement for Medical Marihuana Cultivation Facilities within an Industrial District. These fees are based upon projected staff time for investigation and processing.

I recommend the following motion:

that the following amendments to the Traverse City Code of Ordinances, which would provide regulations for medical marihuana cultivation and medical marihuana collectives, which was introduced on August 2, be enacted with an effective date of August 26, 2010:

Medical Marihuana, Section 1320.07;
Medical Marihuana, Section 1330.01;
Medical Marihuana, Section 1332.01;
Medical Marihuana, Section 1334.01;
Medical Marihuana, Section 1336.01;
Medical Marihuana, Section 1344.01;
Medical Marihuana, Section 1354.01;
Medical Marihuana, Section 1358.01, as recommended by the City Planning Commission; and

License Requirements for Medical Marihuana Cultivation Facilities, Chapter 844; and further

that the Resolution Establishing Fees for the City Clerk Department (which establishes fees for a "Medical Marihuana Cultivation Facility" License) be adopted.

mmy/dc

k:\ccclerk\marentette\commission\communication\ordamend_medicalmarihuana_enact

Memorandum

The City of Traverse City
Planning Department



TO: R. BEN BIFOSS, CITY MANAGER

FROM: RUSS SOYRING, PLANNING DIRECTOR *RSoyring*

SUBJECT: REVISIONS TO THE MEDICAL MARIHUANA DRAFT ORDINANCE

DATE: August 9, 2010

Attached please find the proposed zoning ordinance amendments introduced on August 2, 2010, addressing uses authorized by the Michigan Medical Marihuana Act.

The proposed ordinance restricts cultivation of medical marihuana allowed by the Michigan Medical Marihuana Act as follows:

1. No more than 72 plants may be grown on a parcel with a single family dwelling.
2. No more than 12 plants may be grown per dwelling on a parcel containing more than a single family dwelling.
3. Cultivation in excess of 72 plants is restricted to Industrial Districts.

Additionally, under the proposed ordinance amendment, Medical Marihuana Collectives, defined as a use where transfer of Medical Marihuana occurs, would be allowed in C-3, C-4, and H. In addition to other regulations, the proposed ordinance restricts the hours of operation of the Collective and prohibits cultivation at these facilities.

At the time the proposed ordinance amendments were introduced, it was suggested that it be made clear that Medical Marihuana Cultivation in a dwelling was not a Home Occupation. The definition of Medical Marihuana Cultivation has been revised to make clear that this activity is a separate and distinct use under the City's Zoning Ordinance.

Additionally, it was suggested that the standards for Home Occupations be reviewed and added as appropriate to the standards for Medical Marihuana Cultivation in dwellings. Each of the regulations for a Home Occupation is listed below followed by the action taken with respect to each.

1. A home occupations shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.
 - This regulation is already addressed in regulations 3 and 5 pertaining to Medical Marihuana Cultivation in a dwelling.

Memorandum

The City of Traverse City
Planning Department



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2. All business activity and storage shall take place within the interior of the dwelling and/or accessory building.
 - This regulation is addressed in standard 3.
 3. No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - This regulation has been added.
 4. The home occupation shall not generate vehicular traffic beyond eight trip-ends per day.
 - This regulation is not applicable because transfer is prohibited. Therefore, no customers will be going to and from the dwelling.
 5. Only off-street parking facilities customary for a residential use and located on the premises may be used.
 - This regulation is not applicable because transfer is prohibited. Therefore, no customers will be going to and from the dwelling.
 6. No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
 - This regulation was added.
 7. Home occupations shall be conducted solely by persons residing at the residence and no more than two such persons shall be employed in the home occupation. If the residence is located on an arterial or collector street, one non-resident employee at one time is also allowed in addition to two resident employees.
 - This regulation is addressed in standards 5 and 1. However, the regulations for Medical Marihuana Cultivation in a dwelling are more restrictive because only 1 person may engage in the use in a single family dwelling as opposed to 2 persons.
 8. Any sign identifying the occupation must conform to the regulations of the Traverse City Code Chapter 1476, *Signs*.
 - This regulation does not need to be stated. All properties must conform to the City's Sign Ordinance.
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Memorandum

The City of Traverse City
Planning Department



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9. No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
 - This regulation is addressed in standard 6.
 10. Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
 - This regulation is not applicable.
 11. The use shall not generate noise, vibration or odors detectible beyond the property line.
 - This regulation is addressed in standard 4.

Finally, it was suggested "no more than 72 plants" be removed from the proposed ordinance amendment restricting medical marihuana cultivation on a single family dwelling parcel to prevent someone from interpreting the Zoning Ordinance as authorizing more plants than may be allowed under the Michigan Medical Marihuana Act. The ordinance has been revised to state: "No more than **the maximum number of plants one (1) person** may cultivate under the Michigan Medical Marihuana Act shall be cultivated per Parcel." This language clarifies that only one person may grow only the number of plants he or she is allowed under the Act which is currently 72 if a person is both caregiver for 5 patients and a qualifying patient. It should be noted that as a result of the language change, in the event that the number of plants allowed under the Act is adjusted up or down, that number will automatically be incorporated into this proposed ordinance.

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Medical Marihuana

THE CITY OF TRAVERSE CITY ORDAINS:

That Section 1320.07, Definitions, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

1320.07 DEFINITIONS.

As used in this Chapter:

Abutting means a lot or parcel which shares a common border with the subject lot or parcel.

Accessory building means a building or structure customarily incidental and subordinate to the principal building and located on the same lot as and spacially separated from the principal building.

Accessory use means a use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

Affordable housing means housing units for eligible low-income households where the occupant is paying no more than 30% of gross income for housing costs.

Aggrieved person means a person who has suffered a substantial damage from a zoning decision not in common to other property owners similarly situated, and who has actively opposed the decision in question.

Airport terminal means the main passenger location of an airport and includes all office, hotel and retail uses commonly occurring at such locations.

Alley means a way which functions primarily as a service corridor and provides access to properties abutting thereon. "Alley" does not mean "street".

Alteration means any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders.

Basement means that portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement, as defined herein, shall not be counted as a story (see Figure 1-1). A cellar is a basement.

Berm means a constructed mound of earth rising to an elevation above the adjacent ground level of the site where located which contributes to the visual screening of the area behind the berm.

Block means a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity of development.

Block, face. "Face block" means that portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

Boat house means an enclosed or partially enclosed structure designed for the use and storage of private watercraft and marine equipment.

Boat livery means any structure, site or tract of land utilized for the storage, servicing, docking or rental of watercraft for a fee.

Brew pub means a facility as defined such by the State of Michigan.

Building means any structure designed or built for the enclosure, shelter or protection of persons, animals, chattels or property of any kind.

Building, height of. See "Height of building".

Building, principal. "Principal building" means a building within which is conducted the main or principal use of the lot upon which it is located.

Cemetery means property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings or household pets.

Clinic means an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians or dentists or similar professions.

Club means an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit and open only to members and not the public.

Cluster means a development design technique that concentrates building on a portion of the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features.

Communication Antenna means a device, dish or array used to transmit or receive telecommunications signals mounted on a communication tower, building or structure that is greater than one square meter in a residential district or two square meters in a nonresidential district. Antenna does not include federally-licensed amateur radio station, television or radio receive-only antennas or antennas used solely for personal use.

Communication antennas are not "essential services," public utilities or private utilities.

Communication tower or tower means any structure that is primarily designed and constructed for the purpose of supporting one or more antennas for telecommunications, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. Communication towers are not "essential services," public utilities or private utilities.

Community Garden means a parcel gardened collectively by a group of people.

Convenience store means a retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

Country club. See "golf course".

Critical root zone means a circular area surrounding a tree, the radius of which is measured outward from the trunk of a tree one foot for each one inch of diameter at breast height. The critical root zone shall also extend to a depth of four feet below the natural surface ground level.

Cultural facilities means facilities for activities for the preservation and enhancement for the cultural well-being of the community.

Development means all structures and other modifications of the natural landscape above and below ground or water on a particular site.

Diameter at breast height means the diameter of a tree trunk in inches measured by diameter at four and one-half feet (4.5') above the ground.

District means a section of the City for which the zoning regulations governing the use of buildings and premises, the height of buildings, setbacks and the intensity of use are uniform.

Drive-in means an establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

Drive-through means an establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive service or obtain goods intended to be consumed off-premises.

Dripline means an imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Driveway means a means of access for vehicles from a street, approved alley, across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot.

Driveway, Service means a point of access solely for the use of vehicles designed to load and unload trash receptacles three cubic yards or more in size.

Dwelling means any building or portion thereof which is designed for or used exclusively for residential purposes and containing one or more dwelling units.

Dwelling, multiple family. "Multiple family dwelling" means a building or portion thereof containing three or more dwelling units and designed for or occupied as the home of three or more families living independently of each other.

Dwelling, single-family. "Single-family dwelling" means a detached building containing one dwelling unit and designed for or occupied by only one family.

Dwelling, two-family. "Two-family dwelling" means a building designed for or occupied exclusively by two families living independently of each other.

Dwelling unit means one or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes. The existence of a food preparation area within a room or rooms shall be evidence of the existence of a dwelling unit.

Eligible household means a household meeting the income criteria included in Chapter 1376, with income determined in a manner consistent with determinations of lower income households and area median income under Section 8 of the U.S. Housing Act of 1937, as amended (Section 8 Housing Program).

Eligible housing nonprofit means a 501(c)3 nonprofit housing organization with the means and capacity to guarantee and enforce long-term affordability of affordable housing units meeting the requirements of Chapter 1376.

Erected means built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage and the like, shall be considered a part of erection when done in conjunction with a structure.

Essential services means the installation, construction, alteration or maintenance by public utilities or governmental agencies of underground, surface or overhead telephone, electrical, gas, steam, fuel, or water distribution systems, collections, supply or disposal

systems, streets, alleys, sidewalks, or trails, including pavement, traffic control devices, signs, poles, wires, mains, drains, sewers, pipes, conduits, cables, padmount transformers, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or governmental agencies for the general public health, safety, convenience or welfare. "Essential services" do not include communication antennas and communication towers.

Essential service structures. The erection, construction, alteration or maintenance by public utilities or governmental agencies of structures not in the right-of-way over 800 cubic feet in area including, but not limited to, towers, transmission and subtransmission facilities, or buildings related to essential services in all districts.

Facade means the exterior wall of a building exposed to public view.

Family means one or more persons occupying a dwelling unit and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from persons occupying a boarding house, lodging house or hotel.

Fence means a constructed barrier made of wood, metal, stone, brick or any manufactured materials erected for the enclosure of yard areas.

Flood plain, 100 year. "100 year flood plain" means the lowland areas adjoining inland and coastal waters which are identified on Floodway Maps produced by FEMA (Federal Emergency Management Agency) and which are estimated to have a one per cent chance of flooding in a given year.

Floor area. See "Gross Floor Area."

Frontage means the total continuous width of the front lot line.

Golf course/country club means any golf course, public or private, where the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges and miniature golf courses as a principal use.

Grade means

1. **For buildings having walls adjoining one street only:** the elevation of the public sidewalk, top of curb, or centerline of the street right-of-way, whichever is closest to the building, where a building wall adjoins a street.
2. **For buildings having walls adjoining more than one street:** the average elevation of the sidewalks, curbs or centerlines of streets, whichever is closest to the building walls adjoining the streets.
3. **For buildings having no wall adjoining the street:** the average of the lowest and highest ground surface elevations in an area within six feet of the foundation line of a building or structure. Any building or structure wall within 35 feet of a public or private street shall be considered as adjoining the street. (See Figure 1-2.)

Greenbelt means a strip of land of definite width and location upon which existing vegetation is preserved or an area is reserved for the planting of living plant materials to serve as an obscuring screen or buffer strip in carrying out the requirements of this Code.

Grocery store means a retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods.

Gross floor area (GFA) means the sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of

a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

Height of building means the vertical distance from the grade to the highest point on a mansard or flat roof or to the median height between the eaves and the ridge for gable, hip and gambrel roofs. (See Figure 1-3).

Home occupation means an accessory use of a dwelling unit for business purposes.

Impervious surface means any material which prevents, impedes or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation bearing soils, including building, asphalt, concrete, gravel and other surfaces.

Impervious surface ratio means the area of impervious surface less those areas used exclusively for pedestrian circulation or outdoor recreational facilities divided by the gross site area.

Kennel means any lot or premises used for the sale, boarding, or breeding of dogs, cats or other household pets or the keeping of five or more dogs or cats in any combination over the age of six months.

Land clearing means:

1. The clearing of over 8,000 square feet of vegetation from any site, or
2. The removal of more than 20 trees more than 6 inches in diameter at breast height within 50 feet of a public or private street or river.

Mowing, trimming or pruning of vegetation to maintain it in a healthy, viable condition is not considered land clearing.

Landing area means a landing pad, area, strip, deck or building roof used to launch or receive aircraft, including, but not limited to, power-driven winged or delta-winged aircraft, gliders, balloons and helicopters.

Landscaping means some combination of planted trees, vines, ground cover, flowers or turf so long as a minimum of 80 per cent of the landscape area is covered by living plant material. In addition, the combination or design may include rock ground cover, earth mounds, and such structural features as fountains, pools, art works, screens, walls, fences and benches.

Laundromat means a business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises or operated for the benefit of retail customers who bring in and call for laundry.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this Zoning Code, including one principal building together with accessory buildings, open spaces and parking areas required by this Zoning Code, and having its principal frontage upon a street or upon an officially approved private street. The word "lot" includes the words "plot," "tract" or "parcel."

Lodging Facility means a commercial establishment with one or more buildings whose primary use is to provide temporary overnight accommodations within individual guest rooms or suites to the general public for compensation. Accessory uses may include eating places, meeting rooms and other similar uses.

Lot, corner. "Corner lot" means a lot which has at least two contiguous sides abutting on and at the intersection of two or more streets.

Lot of record means a lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat.

Lot, through. "Through lot" means an interior lot having frontage on two more or less

parallel streets.

Lot width means the horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line.

Manufacturing means the production of articles for use from raw or prepared materials by giving these materials new forms, qualities, properties or combinations, whether by hand labor or machine.

Marina means a commercial mooring, berthing, or docking facility for watercraft with or without provisions for launching, haulout, servicing, fueling or sales of accessory supplies.

Mechanical amusement arcade means any place, premises, room or establishment in which a substantial and significant portion of the business is devoted to the operation of mechanical amusement devices, or in which more than five mechanical amusement devices are located and available for operation. For purposes of this Zoning Code, a mechanical amusement arcade shall not include the following:

1. Mechanical amusement devices located in bars, taverns and cocktail lounges which are properly licensed by the State when the devices are located so as to be an integral part of the licensed operation and are available only to tavern patrons; and
2. Mechanical amusement devices located in motels or hotels when the devices are generally available only to registered guests.

Mechanical amusement device means any machine which, upon the insertion of a coin, slug, token, plate or disk, or upon payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, including, but not limited to, games registering a score; electronic video games; mechanical and/or electronic devices, such as marble machines, pinball machines, mechanical grab machines, shuffle board game machines, pool tables and billiard tables; and all game operations or transactions similar thereto, whether operated by hand, electric power or a combination thereof.

"Mechanical amusement device" shall not include:

1. A juke box or other similar device which plays only music for money;
2. A full-size bowling lane or alley;
3. A movie theater seating more than ten persons; and
4. A vending machine dispensing food, drink, tobacco, toys or written material, which material can be utilized away from the premises where the machine is located and does not require further participation by the person inserting the item or paying the price at the location of the machine. A mechanical amusement device located on property used solely for a residential purpose or a private club, which device is not available for use by the general public, shall be exempt from this definition.

Medical Marihuana means marihuana as defined by the Michigan Medical Marihuana Act., MCL 333.26421 *et seq.* grown, used, or transferred for "medical use" as defined by the Michigan Medical Marihuana Act., MCL 333.26421 *et seq.*

Medical Marihuana Collective means a use where Medical Marihuana is transferred, pursuant to the Michigan Medical Marihuana Act., MCL 333.26421 *et seq.*

Medical Marihuana Cultivation means a use where Medical Marihuana is grown as permitted by the Michigan Medical Marihuana Act., MCL 333.26421 *et seq.*

Medical Marihuana Cultivation Facility means a use where more than 72 plants are being cultivated on a Parcel.

Microbrewery means a facility as defined as such by the State of Michigan.

Non-conforming use means a lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

Nursing home. See "Residential care and treatment facility."

Open space, common. "Common open space" means land within or related to a development, not individually owned that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.

Ordinary high water mark means the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is identified along Grand Traverse Bay and the lower Boardman River as elevation 581.04 feet USGS.

Owner means any person having an ownership interest in a premises as shown on the latest Traverse City tax records.

Parcel. See "Lot."

Parking area means any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, driveways and legally designated areas of public streets.

Parking area, commercial. "Commercial parking area" means a tract of land which is used for the storage of motor vehicles, which is not accessory to any other use on the same or any other lot and which contains parking space rented to the general public or reserved for individuals by the hour, day, week or month.

Parking area, off-street. "Off street parking area" means a land surface or facility providing vehicular parking spaces off of a street together with drives and maneuvering lanes so as to provide access for entrance and exit for the parking of motor vehicles.

Parking area, private. "Private parking area" means a parking area for the exclusive use of the owners, tenants, lessees, or occupants of the lot on which the parking area is located or their customers, employees, or whomever else they permit to use the parking area.

Parking area, public. "Public parking area" means a publicly owned or controlled parking area available to the public, with or without payment of a fee.

Parking space means an area of land provided for vehicles exclusive of drives, aisles, or entrances giving access thereto, which is fully accessible for parking of permitted vehicles.

Parking structure means a building or structure consisting of more than one level and used to store motor vehicles.

Pavement. "Pavement" and "paved" mean permanent and completely covered with concrete, a bituminous surface, brick or other surface approved by the Planning Director.

Pedestrian scale means design and construction considerations based upon the scale of a human being which imbue occupants and users of the built environment with a sense of comfort and security.

Person means a corporation, association, partnership, trust, firm or similar activity as well as an individual.

Place of worship means a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Planning director means the head of the City Planning and Zoning Department or the designee of that person.

Plat means a map of a subdivision of land recorded with the Register of Deeds pursuant to State statute.

Primary Caregiver means a primary caregiver with a registry identification card as defined by the Michigan Medical Marihuana Act., MCL 333.26421 *et seq.*

Principal use means the main use of land or structures as distinguished from a secondary or accessory use.

Public utility means any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

Qualifying Patient means a qualifying patient with a registry identification card as defined by the Michigan Medical Marihuana Act., MCL 333.26421 *et seq.*

R-District means a residence district, namely an RC, R-1a, R-1b, R-2, R-9, R-15, and R-29 district.

Recreational facilities means a public or private non-profit facility for athletic activities such as ice arenas, stadiums, indoor sports arenas, community recreation centers, indoor and outdoor swimming pools.

Recreational vehicle means a vehicle primarily designed and used as a temporary living quarters for recreational, camping, or travel purposes including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

Residential care and treatment facility means a facility providing:

1. Services, programs and temporary shelter for residents who are undergoing alcohol or substance abuse rehabilitation;
2. Temporary emergency shelter and services for battered individuals and their children in a residential structure;
3. Housing and personal services such as nursing, recreation, housekeeping and food preparation in a residential structure for persons who are not otherwise able to provide those services themselves and are dependent upon others for doing so. But not including an adult or juvenile correction institution or transitional housing.

Restaurant, family means an establishment where food and drink are prepared and served to seated customers. Customer turnover rates are typically less than one hour. Generally, these establishments serve breakfast, lunch, and dinner and sometimes are open 24 hours a day. It may include cafeteria-style facilities.

Restaurant, fast food means an establishment where food and drink are served to customers at a counter. Such establishments may or may not have seating facilities. Generally, food and drink is ordered and taken to be consumed outside the restaurant building.

Restaurant, fine means an establishment where food and drink are prepared and served. Customer turnover rates are typically one hour or longer. Such establishments serve dinner but generally do not serve breakfast and may or may not serve lunch or brunch.

Right-of-way means a public or private street, alley or easement permanently established for the passage of persons or vehicles.

Rooming house means a residential building where rooms or suites of rooms are rented where the renters use common facilities, such as hallways and bathrooms. A rooming house shall not include lodging facilities, apartment houses, two and multi-family dwellings or fraternity and sorority houses.

School means an educational institution under the sponsorship of a private or public agency providing elementary or secondary curriculum, and accredited or licensed by the State of Michigan; but excluding profit-making private trade or commercial schools.

Screen means a structure providing enclosure and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other growing materials.

Screen, opaque means a masonry wall, fence sections, earthen berm, evergreen hedge or a combination of these elements which completely interrupt visual contact and provide spatial separation.

Setback means the distance required between a lot line and a building wall.

Setback, front. "Front setback" means the minimum required distance, extending the full lot width, between the principal building and the front lot line.

Setback, rear. "Rear setback" means the minimum required distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front line.

Setback, side. "Side setback" means the minimum required distance, extending from the front setback to the rear setback, between the principal and accessory building and the side lot line.

Site diagram means a drawing, drawn to scale, showing the location of buildings and structures on a lot, as well as driveways, curb cuts, alleys, streets, easements and utilities. See Appendix 1, Figure 1-4.

Site plan means a plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Code.

Stop work order means an administrative order which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Code.

Street means any public way, such as a public street, avenue or boulevard, at least 16 feet wide. Street does not mean "alley". See also "Private street."

Street, access. "Access street" means a street or alley designed primarily to provide access to properties.

Street, arterial. "Arterial street" means a street designed to carry high traffic volumes through the community.

Street, collector. "Collector street" means a street designed to carry moderately high traffic volumes from arterial and access streets.

Street, private. "Private street" means an officially approved thoroughfare, other than a public street or alley, permanently reserved as the principal means of access to abutting property.

Structural alterations means any change in a building requiring a building permit.

Structure means anything constructed or erected, the use of which requires a more or less permanent location on the ground or an attachment to something having a permanent location on the ground, including, but not limited to, freestanding signs,

billboards, back stops for tennis courts and pergolas.

Tourist home means a single-family dwelling owned and occupied by a person renting out not more than three rooms for compensation to persons who do not stay for more than seven consecutive days.

Townhouse means a multiple dwelling in which each dwelling unit shares a common wall with at least one other dwelling unit and in which each dwelling unit has living space on the ground floor and has a separate ground-floor entrance.

Trailer means any enclosure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirtings, and which has been or reasonably may be equipped with wheels or devices for transporting the enclosure from place to place. "Trailer" includes motor homes, travel trailers and camper vans.

Transit center means a fixed location where passengers interchange from one route or vehicle to another that has significant infrastructure such as a waiting room, benches, restrooms, sales outlet, ticket or pass vending machines and other services.

Transitional housing means a facility which is operated by a government or a nonprofit agency providing interim sleeping and bath accommodations; interim eating and cooking facilities; and professional services to assist individuals or families in locating permanent housing.

Treelawn means the area of public right-of-way lying between the curb line of a curbed Street or developed travelway of a noncurbed street and the nearest private property line substantially parallel to said street.

Trip end means the total of all motor vehicle trips entering plus all motor vehicle trips leaving a designated land use or building over a given period of time.

Vacation Home Rental means a commercial use of a dwelling where the dwelling is rented or sold for any term less than 30 consecutive days.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this Zoning Code.

Yard, front. "Front yard" means all land extending across the width of a property and lying between the building line and the front lot line.

Yard, rear. "Rear yard" means all land extending across the width of the property and lying between the building and the rear lot line.

Yard, side. "Side yard" means all land lying between a principal building and the side lot lines and extending from the front to the rear of the principal building.

Zoning Code means Part 13, Title One of the Code of Ordinances of the City of Traverse City and includes the text of this Zoning Code as well as all maps, tables, graphics, schedules as included or attached as enacted or subsequently amended.

(Ord. 476. Passed 7-6-99. Ord. 557. Passed 2-4-02. Ord. 565. Passed 6-3-02. Ord. 630. Passed 3-15-04. Ord. 672. Passed 03-21-05. Ord. 723. Passed 3-19-07. Ord. 781. Passed 2-4-08. Ord. 773. Passed 3-17-08. Ord. 787. Passed 3-17-08. Ord. 820. Passed 1-05-09. Ord. 827. Passed 2-02-09. Ord. 843. Passed 8-3-09.)

The effective date of this Ordinance is the _____ day of _____, 2010.

I hereby certify the above ordinance amendment was introduced on _____, 2010, at a regular meeting of the City Commission and was enacted on _____, 2010, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Christopher M. Bzdok, Mayor

Debbra A. Curtiss, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____.

Debbra A. Curtiss, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Medical Marihuana

THE CITY OF TRAVERSE CITY ORDAINS:

That Section 1330.01, RC-Residential Conservation District, Uses Allowed, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

1330.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Residential Conservation District:

- OS district uses, with buildings less than 3,000 square feet gross floor area;
- R-1a and R-1b district uses;
- Clustered single family dwellings;
- Home occupations subject to the following conditions:
 - (1) A home occupation shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.
 - (2) All business activity and storage shall take place within the interior of the dwelling and/or accessory building.
 - (3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (4) The home occupation shall not generate vehicular traffic beyond eight trip-ends per day.
 - (5) Only off-street parking facilities customary for a residential use and located on the premises may be used.
 - (6) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
 - (7) Home occupations shall be conducted solely by persons residing at the residence, and no more than two such persons shall be employed in the home occupation.
 - (8) Any sign identifying the occupation must conform to the regulations of Traverse City Code Chapter 1476, Signs.
 - (9) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
 - (10) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
 - (11) The use shall not generate noise, vibration or odors detectible beyond the property line.

- Medical Marihuana Cultivation on a Parcel containing one Single Family Dwelling meeting the following requirements:
 - (1) No more than the maximum number of plants one (1) person may cultivate under the Michigan Medical Marihuana Act shall be cultivated per Parcel;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the Parcel and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Parcel shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing on the Parcel shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
- Medical Marihuana Cultivation on a Parcel containing a more than one Single Family Dwelling, a Two Family Dwelling, or a Multiple Family Dwelling meeting the following requirements:
 - (1) No more than 12 Medical Marihuana plants shall be cultivated per Dwelling Unit;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Dwelling Unit shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marihuana to Qualifying Patients other

than Qualifying Patients residing within the Dwelling Unit shall occur:

- (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
- (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.

(Ord. 476. Passed 7-6-99. Ord. 650. Passed 8-16-04.)

The effective date of this Ordinance is the _____ day of _____, 2010.

I hereby certify the above ordinance amendment was introduced on _____, 2010, at a regular meeting of the City Commission and was enacted on _____, 2010, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Christopher M. Bzdok, Mayor

Debra A. Curtiss, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____.

Debra A. Curtiss, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Medical Marihuana

THE CITY OF TRAVERSE CITY ORDAINS:

That Section 1332.01, R-1a and R-1b-Single Family Dwelling District, Uses Allowed, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

1332.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Single Family districts:

- Adult foster care (State licensed residential facility as defined by MCLA 125.583b);
- Athletic fields;
- Boat houses if they are an accessory use, if they are designed for housing a boat, if provisions are made for routing of any boardwalk, and if proper State and federal permits are obtained;
- Community Gardens;
- Dwellings, single family;
- Essential services;
- Golf courses;
- Home occupations subject to the following conditions:
 - (1) A home occupation shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building Accessory to such dwelling.
 - (2) All business activity and storage shall take place within the interior of the dwelling and/or accessory building.
 - (3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (4) The home occupation shall not generate vehicular traffic beyond eight trip-ends per day.
 - (5) Only off-street parking facilities customary for a residential use and located on the premises may be used.
 - (6) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
 - (7) Home occupations shall be conducted solely by persons residing at the residence, and no more than two such persons shall be employed in the home occupation.

- (8) Any sign identifying the occupation must conform to the regulations of Traverse City Code Chapter 1476, *Signs*.
 - (9) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
 - (10) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
 - (11) The use shall not generate noise, vibration or odors detectible beyond the property line.
- Medical Marihuana Cultivation on a Parcel containing one Single Family Dwelling meeting the following requirements:
 - (1) No more than the maximum number of plants one (1) person may cultivate under the Michigan Medical Marihuana Act shall be cultivated per Parcel;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the Parcel and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Parcel shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing on the Parcel shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
 - Medical Marihuana Cultivation on a Parcel containing a more than one Single Family Dwelling, a Two Family Dwelling, or a Multiple Family Dwelling meeting the following requirements:
 - (1) No more than 12 Medical Marihuana plants shall be cultivated per Dwelling Unit;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and

equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;

- (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the dwelling unit and shall not be visible from an adjoining public way;
- (5) The Principal Use of the Dwelling Unit shall be a Dwelling and shall be in actual use as such;
- (6) No transfer of Medical Marijuana to Qualifying Patients other than Qualifying Patients residing within the Dwelling Unit shall occur;
- (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible;
- (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.

- Playgrounds;
- Tourist homes meeting the following requirements:
 - (1) Rooms utilized for sleeping shall be part of the primary residential structure and shall not be specifically constructed or remodeled for rental purposes.
 - (2) The tourist home shall not be closer than 1,000 feet to an existing licensed tourist home.
 - (3) The exterior appearance of the structure shall not be altered from its single family character.
 - (4) There shall be no separate or additional kitchen facility for the guests.
 - (5) Off-street parking shall be provided as required by this Zoning Code and shall be developed in such a manner that the residential character of the property is preserved.
 - (6) A site plan is approved according to the Zoning Code. Certain site plan information may be waived at the discretion of the Planning Director.
 - (7) A City tourist home license is maintained.
 - (8) A tourist home shall be an incidental and secondary use of a dwelling unit for business purposes. The intent of this provision is to ensure compatibility of such business use with other permitted uses of the residential districts and with the residential character of the neighborhoods involved, and to ensure that tourist homes are clearly secondary and incidental uses of residential buildings.

(Ord. 476. Passed 7-6-99. Ord. 649. Passed 8-16-04. Ord. 842. Passed 8-3-09.)

The effective date of this Ordinance is the _____ day of _____, 2010.

I hereby certify the above ordinance amendment was introduced on _____, 2010, at a regular meeting of the City Commission and

was enacted on _____, 2010,
at a regular meeting of the City Commission by a
vote of Yes: ____ No: ____ at the Commission
Chambers, Governmental Center, 400 Boardman
Avenue, Traverse City, Michigan.

Christopher M. Bzdok, Mayor

Debra A. Curtiss, City Clerk

I hereby certify that a notice of adoption of the
above ordinance was published in the Traverse City
Record Eagle, a daily newspaper published in
Traverse City, Michigan, on _____.

Debra A. Curtiss, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Medical Marihuana

THE CITY OF TRAVERSE CITY ORDAINS:

That Section 1334.01, R-2-Two Family Dwelling District, Uses Allowed, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

1334.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Two Family Dwelling District:

- Adult foster care (State licensed residential facility as defined by MCL 125.583b; MSA 5.2933(2));
- Art galleries in non-residential buildings built prior to 1950, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
- Athletic fields;
- Boat houses if they are an accessory use, if they are designed for housing a boat, if provisions are made for routing of any boardwalk, and if proper State and federal permits are obtained;
- Community Gardens;
- Dwellings, single family;
- Dwellings, two-family;
- Dwellings, multiple family, in non-residential buildings built prior to 1950, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
- Essential services;
- Golf courses;
- Home occupations subject to the following conditions:
 - (1) A home occupation shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.
 - (2) All business activity and storage shall take place within the interior of the dwelling and/or accessory building.
 - (3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (4) The home occupation shall not generate vehicular traffic beyond eight trip-ends per day.
 - (5) Only off-street parking facilities customary for a residential use and located on the premises may be used.

- (6) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
- (6) Home occupations shall be conducted solely by persons residing at the residence, and no more than two such persons shall be employed in the home occupation.
- (8) No sign, display or device identifying the occupation may be used.
- (9) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
- (10) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
- (11) The use shall not generate noise, vibration or odors detectible beyond the property line.

- **Medical Marihuana Cultivation on a Parcel containing one Single Family Dwelling meeting the following requirements:**

- (1) No more than the maximum number of plants one (1) person may cultivate under the Michigan Medical Marihuana Act shall be cultivated per Parcel;
- (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
- (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
- (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the Parcel and shall not be visible from an adjoining public way;
- (5) The Principal Use of the Parcel shall be a Dwelling and shall be in actual use as such.
- (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing on the Parcel shall occur.
- (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
- (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.

- **Medical Marihuana Cultivation on a Parcel containing a more than one Single Family Dwelling, a Two Family Dwelling, or a Multiple Family Dwelling meeting the following requirements:**

- (1) No more than 12 Medical Marihuana plants shall be cultivated per Dwelling Unit;
- (2) The Medical Marihuana Cultivation shall comply at all times with the

Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;

- (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the dwelling unit and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Dwelling Unit shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing within the Dwelling Unit shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
- Offices in nonresidential buildings built prior to 1950, provided they are located on an arterial or collector street and provided the building is not expanded except as necessary to meet barrier free access requirements.
 - Tourist homes meeting the following requirements:
 - (1) Rooms utilized for sleeping shall be part of the primary residential structure and shall not be specifically constructed or remodeled for rental purposes.
 - (2) The tourist home shall not be closer than 1,000 to an existing licensed tourist home.
 - (3) The exterior appearance of the structure shall not be altered from its single family appearance.
 - (4) There shall be no separate or additional kitchen facility for the guests.
 - (5) Off-street parking shall be provided as required by this Zoning code and shall be developed in such a manner that the residential character of the property is preserved.
 - (6) A site plan is approved according to this Zoning Code. Certain site plan information may be waived at the discretion of Planning Director.
 - (7) A City tourist home license is maintained.
 - (8) A tourist home shall be an incidental and secondary use of a dwelling unit for business purposes. The intent of this provision is to ensure compatibility of such business use with other permitted uses of the residential districts and with the residential character of the neighborhoods involved, and to ensure that tourist homes are clearly secondary and incidental uses of residential buildings.

- Other similar uses as approved by the Planning Commission provided:
 - (1) The uses are located on an arterial or collector street.
 - (2) The uses are in a non-residential building built prior to 1950 and the building is not expanded except as necessary to meet barrier-free access requirements.
 - (3) The uses will not generate excessive noise, lighting, fumes or other nuisances.

(Ord. 693. Passed 12-19-05. Ord. 746. Passed 5-21-07. Ord. 842. Passed 8-3-09.)

The effective date of this Ordinance is the _____ day of _____, 2010.

I hereby certify the above ordinance amendment was introduced on _____, 2010, at a regular meeting of the City Commission and was enacted on _____, 2010, at a regular meeting of the City Commission by a vote of Yes: _____ No: _____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Christopher M. Bzdok, Mayor

Debbra A. Curtiss, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____.

Debbra A. Curtiss, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Medical Marihuana

THE CITY OF TRAVERSE CITY ORDAINS:

That Section 1336.01, R-9, R-15 and R-29- Multiple Family Dwelling Districts, Uses Allowed, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

1336.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Multiple Family districts:

- Adult foster care (State licensed residential facility as defined by MCLA 125.583b; MSA 5.2933(2));
- Art galleries in non-residential buildings built prior to October 16, 2003, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
- Athletic fields;
- Boat houses if they are an accessory use, if they are designed for housing a boat, if provisions are made for routing of any boardwalk, and if proper State and federal permits are obtained;
- Coffee houses and family or fine food restaurants in non-residential buildings built prior to October 16, 2003, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
- Community Gardens;
- Dwellings, single family;
- Dwellings, two-family;
- Dwellings, multiple family;
- Essential services;
- Golf courses;
- Home occupations subject to the following conditions:
 - (1) A home occupation shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.
 - (2) All business activity and storage shall take place within the interior of the dwelling and/or accessory building.
 - (3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (4) The home occupation shall not generate vehicular traffic beyond eight trip-ends per day.

- (5) Only off-street parking facilities customary for a residential use and located on the premises may be used.
 - (6) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
 - (7) Home occupations shall be conducted solely by persons residing at the residence and no more than two such persons shall be employed in the home occupation. If the residence is located on an arterial or collector street, one non-resident employee at one time is also allowed in addition to two resident employees.
 - (8) Any sign identifying the occupation must conform to the regulations of the Traverse City Code Chapter 1476, *Signs*.
 - (9) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
 - (10) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
 - (11) The use shall not generate noise, vibration or odors detectible beyond the property line.
- **Medical Marihuana Cultivation on a Parcel containing one Single Family Dwelling meeting the following requirements:**
 - (1) No more than the maximum number of plants one (1) person may cultivate under the Michigan Medical Marihuana Act shall be cultivated per Parcel;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the Parcel and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Parcel shall be a Dwelling and shall be in actual use as such;
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing on the Parcel shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
 - **Medical Marihuana Cultivation on a Parcel containing a more than one Single**

Family Dwelling, a Two Family Dwelling, or a Multiple Family Dwelling meeting the following requirements:

- (1) No more than 12 Medical Marihuana plants shall be cultivated per Dwelling Unit;
- (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
- (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
- (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the dwelling unit and shall not be visible from an adjoining public way;
- (5) The Principal Use of the Dwelling Unit shall be a Dwelling and shall be in actual use as such.
- (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing within the Dwelling Unit shall occur.
- (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
- (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.

- Offices in nonresidential buildings built prior to [the date of this ordinance] provided they are located on an arterial or collector street and provided the building is not expanded except as necessary to meet barrier free access requirements;
- Parks;
- Playgrounds;
- Private clubs, lodges, fraternities or sororities, if located on an arterial or collector street;
- Rooming houses;
- Tourist homes maintaining a City tourist home license;
- Other similar uses as approved by the Planning Commission if such uses will generate similar traffic and parking, are compatible with adjacent land uses, and will not generate excessive noise, lighting, fumes or other nuisances.

(Ord. 476. Passed 7-6-99. Ord. 611. Passed 10-6-03. Ord. 693. Passed 12-19-05. Ord. 842 Passed 8-3-09.)

The effective date of this Ordinance is the _____ day of _____, 2010.

I hereby certify the above ordinance amendment was introduced on _____, 2010, at a regular meeting of the City Commission and was enacted on _____, 2010, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Christopher M. Bzdok, Mayor

Debra A. Curtiss, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____.

Debra A. Curtiss, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Medical Marihuana

THE CITY OF TRAVERSE CITY ORDAINS:

That Section 1344.01, C-3-Community Center District, Uses Allowed, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

1344.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Community Center district:

- HR District uses;
- C-2 District uses;
- Amusement and recreation services (see mechanical amusement arcades below);
- Communication establishments;
- Contractors, with no outside storage;
- Drinking places with entertainment;
- Equipment rental and leasing;
- Finance services, including those having drive throughs subject to the standards of Section 1374.06, *Drive-throughs*;
- Kennels, provided no that no building, open kennel or exercise runway is closer than 200 feet from a Residential District;
- Mechanical amusement arcades subject to the following:
 - (1) All necessary licenses are obtained and maintained.
 - (2) There is in physical attendance at all times of operation a minimum of one adult employee whose sole responsibility is to supervise the conduct of patrons on or near the premises.
 - (3) Suitable ventilation, fire protection measures and adequate lighting inside and outside the premises are provided for the safety of patrons and the public as required by the Fire Marshal.
 - (4) One bicycle rack per mechanical amusement device is provided on-site and located subject to the approval of the Planning Director.
 - (5) There is not more than one arcade in a face block, and in no case shall an arcade be located closer than 600 feet to any existing arcade or amusement park.
- Medical Marihuana Collective meeting the following requirements:
 - (1) Use and transfer of Medical Marihuana shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;

- (2) Transfer of Medical Marihuana shall be only allowed to a Qualifying Patient by his or her Registered Primary Caregiver or by another Qualifying Patient as allowed by the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
- (3) The Collective shall not be in operation between the hours of 10:00 p.m. and 7:00 a.m.
- (4) No Medical Marihuana Cultivation shall occur on the parcel.
- (5) Except for parents or guardians of a Qualifying Patient and the Owner or staff of the facility, persons other than a Qualifying Patient or Primary Caregiver shall be not permitted within the Collective when Medical Marihuana is being transferred or used.
- (6) A Qualifying Patient under the age of 18 shall be accompanied by a parent or guardian and notice of such shall be conspicuously posted.
- (7) A Medical Marihuana Collective shall not be located within a 1,000 foot radius from any existing School.
- (8) The Medical Marihuana Collective shall not be owned or operated by a person that has been convicted of a felony involving controlled substances.

- Microbrewery
- Motorized vehicle dealers, mobile home dealers, watercraft dealers and recreational vehicle dealers subject to the following conditions:
 - (1) All outdoor display and storage in front or on the side of a building shall meet landscape requirements for parking areas.
 - (2) Outdoor display areas shall be differentiated from parking areas using contrasting surface material and shall be designated on a site plan.
 - (3) Any display platforms shall not be elevated more than three feet higher than the adjacent public right of way.
- Personal services, including those having drive-throughs subject to the standards of Section 1374.06, *Drive-throughs*;
- Pet boarding or pet grooming services, provided that no building, open kennel or exercise runway is closer than 200 feet from an R-District.
- Printing (commercial);
- Repair services, miscellaneous;
- Restaurants, family, fine and fast, including drive-ins and drive-throughs accessory to an onsite, indoor, full service restaurant and including the parking requirements of Chapter 1372, *Landscaping* and Section 1374.06, *Drive-throughs*;
- Retail trade;
- Service stations and repair shops (except tire retreading) with or without fuel dispensing;
- Theaters, except outdoor;
- Vehicle wash facilities subject to the following standards:

- Primary metal industries, including smelting, forging and similar operations, subject to the following conditions:
 - (1) The maximum lot size is 14 acres.
 - (2) No odors, smoke or noise from the use are likely to create a disturbance on neighboring public or private property.
- Retail outlets, if accessory to manufacturing use;
- Salvaging damaged merchandise not engaged in sales;
- Scrap steel cutting;
- Sign painting and lettering shops;
- Solvents recovery services;
- Tape slitting for trade;
- Testing and laboratory services;
- Veterinary services for animal specialties provided that no building, open kennel or exercise runway shall be no closer than 200 feet from any R district;
- Vocational schools;
- Warehousing;
- Weighing foods and other commodities;
- Wholesale trade - durable goods;
- Wholesale trade - non-durable goods except livestock and wholesale live animals.

(Ord. 674. Passed 04-04-05. Ord.776. Passed 11-05-07. Ord. 841. Passed 8-3-09.)

The effective date of this Ordinance is the _____ day of _____, 2010.

I hereby certify the above ordinance amendment was introduced on _____, 2010, at a regular meeting of the City Commission and was enacted on _____, 2010, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Christopher M. Bzdok, Mayor

Debbra A. Curtiss, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____.

Debbra A. Curtiss, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Medical Marihuana

THE CITY OF TRAVERSE CITY ORDAINS:

That Section 1358.01, H-Hospital District Uses Allowed, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

1358.01 USES ALLOWED.

- (a) Master Site Facilities Plan. When applying for a land use permit for H-2 District properties, the applicant shall present a Master Site and Facilities Plan for the current uses on all contiguous property owned by applicant and all anticipated uses within a minimum of the next five years. This plan shall show adjacent properties sufficiently to identify surrounding uses and potential impacts on them by the applicant's plan and shall conform to the requirements of Traverse City Code Section 1366.08, *Master Site and Facilities Plans*.
- (b) H-1 District. The following uses of land and buildings, together with accessory uses, are allowed in the H-1 Hospital District:
- Community Gardens;
 - Dormitories;
 - Dwellings, multiple family, up to 29 dwelling units per acre;
 - Group day care homes;
 - Florists;
 - Health services, including clinics of doctors and dentists;
 - Hospitality houses;
 - Medical Marihuana Collective meeting the following requirements:
 - (1) Use and transfer of Medical Marihuana shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (2) Transfer of Medical Marihuana shall be only allowed to a Qualifying Patient by his or her Registered Primary Caregiver or by another Qualifying Patient as allowed by the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
 - (3) The Collective shall not be in operation between the hours of 10:00 p.m. and 7:00 a.m.
 - (4) No Medical Marihuana Cultivation shall occur on the parcel.
 - (5) Except for parents or guardians of a Qualifying Patient and the Owner or staff of the facility, persons other than a Qualifying Patient or Primary Caregiver shall be not permitted within the

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective Date: _____

TITLE: LICENSE REQUIREMENTS FOR MEDICAL MARIHUANA CULTIVATION FACILITIES

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 844, *Medical Marihuana Cultivation Facility*, of the Business Regulation and Taxation Code of the Traverse City Code of Ordinances, be added to read in its entirety as follows:

CHAPTER 844. MEDICAL MARIHUANA ACULTIVATION FACILITY

844.01 DEFINITION.

- (a) "Owner" means any person who has equitable or legal title to any portion of the premises.
- (b) "Medical Marihuana Cultivation Facility" as used in this Chapter has the same meaning as defined in the Zoning Ordinance, Section 1320.07.

844.02 LICENSE REQUIRED.

No person shall operate a Medical Marihuana Cultivation Facility without first obtaining a license therefore as required by this chapter.

844.03 CONDITIONS FOR ISSUANCE.

A Medical Marihuana Cultivation Facility license shall be issued subject to the following conditions, which conditions, are in addition to conditions contained elsewhere in these Codified Ordinances:

- (a) A Medical Marihuana Cultivation Facility shall be inspected at the time of application; shall be compliant with applicable Building, Electrical, Fire, and Plumbing Codes; and shall be inspected yearly by the Police Chief or its designee.
- (b) The Application shall contain a diagram of the Medical Marihuana Cultivation Facility demonstrating the number of facilities within the premises to be utilized for cultivation of Medical Marihuana and compliance with the requirements of the Zoning Ordinance for a Medical Marihuana Cultivation Facility.
- (c) If the Applicant is not the Owner of the premises upon which the Medical Marihuana Cultivation Facility, the application shall include the Owner's

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consent to the use of the premises as a Medical Marihuana Cultivation Facility.

844.04 PROCEDURE FOR APPLICATION

Any person wishing to operate a Medical Marihuana Cultivation Facility shall file a Medical Marihuana Cultivation Facility license application with the City Clerk.

844.05 LICENSE FEE

The annual license fee shall be established by resolution of the City Commission.

844.06 INSPECTIONS.

A Medical Marihuana Cultivation Facility shall meet all conditions of this chapter and other applicable ordinances and laws.

844.07 REVOCATION OF LICENSE.

A license shall be revoked by the City Clerk if, upon receipt of written information or upon the Clerk's own investigation, the Clerk has reason to believe any of the following has occurred:

- (a) The Medical Marihuana Cultivation Facility has received a citation for a violation of the provisions of this chapter, the Traverse City Code, any statute of the State of Michigan, or federal law.
- (b) The Applicant has made a false material statement in the application or has otherwise become disqualified for the issuance of such a permit.
- (c) The Owner or Operator of, or any person occupying the Medical Marihuana Cultivation Facility has violated any provision of this Chapter, the Traverse City Code, any statute of the State of Michigan, or federal law, which violation has been documented by a written complaint certified by the City Clerk pursuant to §844.08.
- (d) The Medical Marihuana Cultivation Facility has been conducted in a manner adverse to the protection of the public health, safety or welfare of the City of Traverse City.

Immediately upon such revocation, written notice thereof shall be given by the City Clerk to the property owner in person or by certified mail addressed to his or her place of business or residence address set forth in the application. Immediately upon the giving of such notice, the permit shall become null and void.

844.08 COMPLAINTS; APPEALS.

If a written complaint is filed alleging that the Owner, Operator, or person occupying the Medical Marihuana Cultivation Facility has violated any provisions

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of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the property owner, together with a notice that an investigation will be made as to the truth of the complaint. The property owner shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation within twenty-one (21) days from the date of notice. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.

If a permit is denied or revoked by the City Clerk, the applicant or holder of a permit may appeal to the City Manager within twenty-one (21) days from the date of the action appealed from. The City Manager shall hold a hearing and make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial or revocation are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of the City Clerk shall be sustained and the applicant may appeal the City Manager's decision to the City Commission within twenty-one (21) days from the City Manager's determination. Review by the City Commission shall be under the same standards of review as the determination by the City Manager and shall be in accordance with rules of procedure established by the City Commission. The City Commission's decision may be reviewed by a court of competent jurisdiction.

The effective date of this Ordinance shall be the _____ day of _____, 2010.

I hereby certify the above ordinance amendment was introduced on _____, 2010, at a regular meeting of the City Commission and was enacted on _____, 2010, at a regular meeting of the City Commission by a vote of Yes: ___ No: ___ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Christopher M. Bzdok, Mayor

Debra A. Curtiss, City Clerk

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**RESOLUTION ESTABLISHING FEES
FOR
CITY CLERK DEPARTMENT**

- Because, various requests are made to the City Clerk Department requiring hours of staff time to prepare reports, assemble information, meet and discuss requests, publish notices and to prepare follow-up reports and communications; and
- Because, the City Commission believes it is important that the actual costs associated with these services are not subsidized by the general taxpayer; now, therefore be it
- Resolved, that the fees for the City Clerk Department be established effective immediately, as follows:

<u>Auctioneer Registration</u>	\$ 10.00/calendar year
<u>Auctioneer Permit</u>	\$ 70.00
<u>Building Moving</u>	\$ 180.00
<u>Film Production Permit Application</u>	\$ 50.00 (plus upon issuance of the permit, reimbursement for City services provided, if any, relating to filming activities)
<u>Going out of Business Permit (new or renewal)</u>	\$ 50.00/30-day
<u>Hunting Permit (Brown Bridge Quiet Area)</u>	\$ 10.00
<u>Hydrant Meter Permit</u>	\$ 40.00 (plus water usage and deposit set administratively)
<u>Industrial Facilities Tax Exemption Certificate Application</u>	\$1,160.00
<u>Land Division/ Boundary Adjustment</u>	\$ 310.00
<u>Liquor License Application</u>	\$ 560.00
<u>Liquor License Intermediary Transfer</u>	\$ 45.00
<u>Marriage Ceremony</u>	\$ 15.00
<u>Medical Marijuana Cultivation Facility-Industrial District</u>	
- License Fee (Initial)	\$ 225.00
- Annual Police Inspection Fee	\$ 95.00

(Resolution for Establishing Fees for City Clerk Department)

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<u>Newsrack Permit</u>	
- Application Fee (including first newsrack/location)	\$ 55.00
- Each additional newsrack/location	\$ 18.00
- Pick-up/Collection Fee	Actual Cost
- Disposal Fee	Actual Cost
<u>Parade Permit (with street closing)</u>	\$ 5.00
<u>Peddler's License (commercial September 15 through May 15)</u>	\$ 50.00/week
<u>Peddler's License (commercial May 16 through September 14)</u>	\$ 50.00/day
<u>Peddler's License (residential)</u>	\$ 50.00/month
<u>Precious Metals</u>	\$ 50.00/calendar year
<u>Secondhand Store (new and renewal)</u>	\$ 50.00/calendar year
<u>Sewer Contractor Registration (new and renewal)</u>	\$ 45.00
<u>Sidewalk Café (new and renewal)</u>	\$ 110.00/calendar year
<u>Sidewalk Display of Merchandise</u>	\$ 10.00
<u>Solicitor's Permit</u>	\$ 10.00
<u>Street Closing Permit</u>	\$ 25.00
<u>Street Performer Permit</u>	\$ 40.00/calendar year
<u>Taxicab License (new)</u>	\$ 435.00/fiscal year
<u>Taxicab License (renewal)</u>	\$ 240.00/fiscal year
<u>Tourist Home Permit (new)</u>	\$ 100.00/calendar year
<u>Tourist Home Permit (renewal)</u>	\$ 70.00/calendar year

I hereby certify that the above resolution was adopted by the City Commission at its regular meeting held August 16, 2010, in the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684, to be effective immediately.

Debbra A. Curtiss, MMC, City Clerk



The City of Traverse City

Communication to the City Commission

FOR THE CITY COMMISSION MEETING OF AUGUST 16, 2010

DATE: AUGUST 12, 2010

FROM: MAKAYLA M. VITOUS, ACTING CITY MANAGER ^{mmv}

SUBJECT: EXTENSION OF MORATORIUM - MEDICAL MARIHUANA

Attached is a memo from the City Attorney and City Planner submitting the ordinance amendments for moratorium extensions for two different time lengths, depending upon whether the City Commission enacted the amendments for Medical Marihuana in the previous agenda item: Extension to August 26, 2010, or to December 19, 2010.

There are two possible motions (6 affirmative votes required for immediate effect):

That an Amendment to the Traverse City Code of Ordinances entitled, *Ordinance Extending Moratorium on the Issuance of Permits or Licenses for the Sale or Dispensation of Medical Marihuana*, which would extend the moratorium until August 26, 2010, be introduced, enacted and given immediate effect for the preservation of the public peace, health and safety.

OR

That an Amendment to the Traverse City Code of Ordinances entitled, *Ordinance Extending and Establishing Moratorium on the Issuance of Permits or Licenses for the Cultivation, Sale or Dispensation of Medical Marihuana*, which would extend and establish a moratorium until December 19, 2010, or effective date of the adoption of proper text amendments to the Zoning Ordinance and any necessary licensing requirements, whichever occurs first, be introduced, enacted and given immediate effect for the preservation of the public peace, health and safety.

mmv/dc

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Memorandum

The City of Traverse City



TO: R. Ben Bifoss, City Manager

FROM: Karrie A. Zeits, City Attorney
Russ Soyring, City Planner

COPY: Debra A. Curtiss, City Clerk

DATE: August 9, 2010

SUBJECT: **MEDICAL MARIHUANA - ORDINANCE EXTENDING MORATORIUM**

Attached please find two proposed ordinances extending the moratorium on the issuance of licenses and permits for uses authorized under the Michigan Medical Marihuana Act. The first Ordinance should be enacted immediately after enactment of the proposed amendments to the Zoning Ordinance restricting cultivation of Medical Marihuana and allowing Medical Marihuana Collectives in the C-3, C-4, and H Districts and the Licensing Ordinance for Medical Marihuana Cultivation Facilities in the event that such amendments are enacted. This ordinance will extend the moratorium from August 19, 2010, until the effective date of the new ordinances, August 26, 2010.

In the event the amendments are not enacted, the second moratorium ordinance should be enacted. This ordinance will extend and establish a moratorium on the issuance of permits or licenses for the cultivation, sale or dispensation of medical marihuana for a period of four (4) months or until the effective date of an amendment to the Zoning Ordinance and licensing regulations. This moratorium is a proactive measure to allow staff more time to develop appropriate Zoning Ordinance Amendments and licensing regulations to protect the public health, safety, and welfare.

Six (6) votes are required to give the ordinance immediate effect.

CITY OF TRAVERSE CITY
Ordinance Amendment No. _____
Effective date:

TITLE: ORDINANCE EXTENDING MORATORIUM ON THE ISSUANCE OF PERMITS OR LICENSES FOR THE SALE OR DISPENSATION OF MEDICAL MARIHUANA

BECAUSE, on April 19, 2010, the City Commission enacted an ordinance establishing a moratorium on the sale or dispensation of medical marihuana in order to ascertain the best and safest path to comply with the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d) and the Michigan Zoning Enabling Act in order to protect the public health, safety, and welfare; and

BECAUSE, the City has studied the issue and prepared and enacted Zoning Ordinance amendments and a License Ordinance; and

BECAUSE, the Ordinances effective date will be beyond the expiration of the moratorium established by the City Commission on April 19, 2010; and

BECAUSE, the City Commission determines that it is desirable to continue to immediately forbid the issuance of permits and licenses for land uses associated with the sale or dispensation of medical marihuana until the effective date of the Zoning Ordinance Amendments and License Ordinance, August 26, 2010; and,

BECAUSE, Chapter IV, Section 31 of the City Charter authorizes the City Commission to enact ordinances immediately necessary for the preservation of the public health, peace, or safety on the date of introduction and give them immediate effect, and the City Commission determines that the following ordinance satisfies that requirement;

THE CITY OF TRAVERSE CITY ORDAINS AS FOLLOWS:

- (1) The moratorium on the issuance of all City permits, licenses, and approvals, including building permits, land use permits, and certificates of occupancy, in regard to land uses associated with the sale or dispensation of medical marihuana effective on April 19, 2010 is extended until August 26, 2010.
- (2) This ordinance shall be given immediate effect.

I hereby certify the above ordinance amendment was introduced, enacted and given immediate effect on April 19, 2010, at a regular meeting of the City Commission by a vote of Yes: ___ No: ___ at the Commission Chambers, Governmental Center, Traverse City, Michigan.

Christopher M. Bzdok, Mayor

Ordinance Amendment No. _____

- (1) The moratorium on the issuance of all City permits, licenses, and approvals, including building permits, land use permits, and certificates of occupancy, in regard to land uses associated with the sale or dispensation of medical marihuana effective on April 19, 2010 is extended until December 19, 2010, or the effective date of the adoption of proper text amendments to the Zoning Ordinance and any necessary licensing requirements, whichever occurs first.
- (2) A moratorium is established on the issuance of all City permits, licenses, and approvals, including building permits, land use permits, and certificates of occupancy, in regard to land uses associated with the cultivation of medical marihuana from the effective date hereof, until December 19, 2010, or the effective date of the adoption of proper text amendments to the Zoning Ordinance and any necessary licensing requirements, whichever occurs first.
- (3) All City boards and commissions are asked and authorized to give their analysis and recommendation regarding a zoning ordinance or licensing regulation concerning the sale and dispensation of medical marihuana top priority.
- (4) This ordinance shall be given immediate effect.

I hereby certify the above ordinance amendment was introduced, enacted and given immediate effect on April 19, 2010, at a regular meeting of the City Commission by a vote of Yes: _____ No: _____ at the Commission Chambers, Governmental Center, Traverse City, Michigan.

Christopher M. Bzdok, Mayor

Debra A. Curtiss, City Clerk

I hereby certify that a notice of the adoption of the above ordinance amendment was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____, 2010.

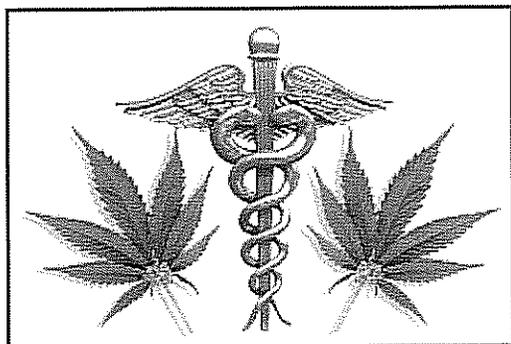
Debra A. Curtiss, City Clerk

Medical marijuana ordinance moves to City Council

Wed, Aug 11, 2010

BY ALEX DOTY
adoty@grandhaventribune.com

After issuing a moratorium several months ago on the dispensation of medical marijuana in Grand Haven, City Council will soon have a look at regulations governing the issue in the city.



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"The city of Grand Haven felt it would be in the city's best interest to allow medical marijuana facilities to exist as a home-based occupation," City Planner Kristin Keery said.

The Grand Haven Planning Commission approved recommending the ordinance in a 6-3 vote Tuesday night. Commissioners Erin Kauth, Tyler Hayes and Mark Hills voted against it.

City Council is expected to consider the proposed zoning ordinance amendment at its Sept. 7 meeting.

While the dispensation of medical marijuana would be allowed as a "minor" home-based occupation in residential districts, it would not be permitted in commercial- or industrial-zoned districts. This was an issue that was taken up by some of the planning commissioners when debating the regulations.

"I'd like to see it in industrial or transitional industrial areas," Hayes said.

This additional zoning district would allow everyone to participate as a caregiver, he said, since certain restrictions such as proximity to local schools could cause people to not participate.

"Obviously, the attorney and I don't support that effort," Keery said of allowing caregivers to operate outside of the residential district.

She said their interpretation is that it isn't allowed by state law to be in the transitional industrial or industrial districts, which could open up the city to a potential lawsuit.

Along with only being allowed in the residential district, some of the regulations in the recommended ordinance include: having medical marijuana only be permitted in the home of the permitted caregiver, only one caregiver would be allowed to exist per dwelling, the medical

marijuana would have to be grown in the dwelling and no caregiver could have more than five patients. Caregivers would also be required to register with the Michigan Department of Community Health and the city's Planning Department.

"This would have helped my wife at the time she was suffering," said Planning Commissioner John Ringelberg, whose wife died in 2001 after a bout with cancer. "But we want to do this right."

Among his concerns with the new ordinance, Ringelberg said, is where the medical marijuana would come from. He made sure the ordinance spelled out that the medical marijuana was grown and processed at the caregivers' facilities.

The Planning Commission had scheduled a public hearing for Tuesday night's meeting, but there was no comment from the audience and Keery said she hadn't received any correspondence from Grand Haven citizens on the issue.

Along with making sure language was correct when sending the recommendation to City Council, planning commissioners also wanted to make sure residents were informed about the ordinance if City Council approves revised language.

Kauth said the city needed to give "due diligence" to make sure those that would want to be caregivers were notified that they had to register with the state as well as the city.

Dallas Zoning Consultants

Effective, Common Sense Approach
Dallas and the Metroplex

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MEMORANDUM

CITY OF GRAND RAPIDS

DATE: January 20, 2010

TO: Eric DeLong, Deputy City Manager

FROM: Suzanne M. Schulz, AICP 
Planning Director



SUBJECT: Information Item: Proposed Medical Marijuana Text Amendment to the Zoning Ordinance

In 2008, the voters of the State of Michigan supported a ballot measure to allow for the medical use of marijuana. The Michigan Medical Marijuana Act and the rules of the Michigan Department of Community Health describe the requirements and rights of a registered caregiver and that of a qualifying patient. Unfortunately, there is nothing in the Act or MDCH rules that describe how a caregiver shall dispense the marijuana to a qualifying patient. The Planning Commission voted unanimously on January 14, 2010 to recommend approval of the attached text to amend the Zoning Ordinance. This amendment would allow a registered medical marijuana caregiver as a home occupation.

Three criteria emerged that provide the reasoning for this proposed approach; the ability to administer, enforce, and defend. The ability to administer relates to how well the City would be able to avoid "shades of grey" so that the regulations were clear and concise, with very little need for interpretation. The ability to enforce is tied to managing some measure of control over the dispensation of medical marijuana so that those in need could have access to it, but the general population would not. And, the ability to defend arose from the need to provide reasonable regulations to protect against exclusionary zoning claims while at the same time exert proactive steps to protect the public health, safety and welfare of our community.

A brief presentation will be provided to the City Commission on this matter on Tuesday, January 26. Law enforcement and outside legal counsel will be available during this time to respond to any questions. The language of the Michigan Medical Marijuana Act and the Administrative Rules of the Michigan Department of Community Health can be found at this link:

http://www.michigan.gov/mdch/0,1607,7-132-27417_51869_52138---,00.html

SMS
Attachments

Cc:
Lt. Nawrocki
Stan Bakita
Scott Smith

PROPOSED TEXT AMENDMENTS TO THE ZONING ORDINANCE

Planning Commission January 14, 2010

Section 5.9.13. Home Occupations.

The regulations of this Section are intended to ensure that home occupations remain subordinate to the residential use, the residential viability of the dwelling is maintained, and shall not be a detriment to the character and livability of the surrounding neighborhood.

- A. Conformance with Zone District Requirements. The dwelling shall conform to all its Zone District requirements.
- B. Business Signs. No business sign shall be displayed on the premises.
- C. Walk-In Trade. Walk-in retail trade shall be prohibited.
- D. Customers, Clients, Students or Patients. No more than 2 customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.
- E. Business License. All home occupations shall obtain a business license from the City Clerk.
- F. Space Limitations. Not more than one-fourth ($\frac{1}{4}$) of the living area of the dwelling unit and less than one-half ($\frac{1}{2}$) of the living area of the main floor shall be devoted to the home occupation. No part of an accessory structure, either attached or detached shall be used. In no instance shall one or more home occupations in any single dwelling unit permanently occupy more than three hundred (300) square feet of the dwelling unit.
- G. Exterior Alterations. Home occupations shall not require exterior alterations or involve construction features not customary in dwellings, or require the use of mechanical or electrical equipment which shall create a nuisance to the adjacent neighborhood.
- H. Interior Alterations. Any permanent structural alterations to the interior of the dwelling unit for purposes of conducting the home occupation which would render it unsuitable for residential use shall be prohibited.
- I. New Entrance Prohibited. No new external entrance to the space devoted to the occupation shall be created.
- J. Outdoor Storage. There shall be no outdoor storage of items supportive of the home occupation.
- K. Parking. The activity shall not require any additional parking.
- L. Hours of operation. Visits by customers, clients, students or patients to a premises in which a home occupation is located shall be limited to the hours of 7am to 8pm.
- M. Residency. The operator of the home occupation shall make the dwelling unit within which the home occupation is conducted his/her legal and primary place of residence, where all activities such as sleeping, eating, entertaining and other functions and activities normally associated with home life are conducted.
- N. Hazards or Nuisances. No home occupation shall be permitted which would increase traffic, fire and safety hazards, noise, dirt, odor, dust, gas, glare, fumes, vibration or other nuisance elements.
- O. Other Codes. All Building, Housing, Fire and other local or State codes and ordinances shall be adhered to for home occupations.
- P. Prohibited Occupations. Prohibited home occupations include, but are not limited to, the following:
 - 1. Animal processing.

2. Any repair of motorized vehicles, including the painting or repair of automobiles, trucks, trailers, boats, and lawn equipment.
3. Animal hospitals or kennels.
4. Barber shops or beauty parlors.
5. Restaurants or catering/food preparation businesses; including general food handling, processing, or packaging.
6. Medical or dental offices.
7. Construction businesses or landscaping businesses that provide the storage of goods, equipment and materials to be utilized in the operation of the business or use.
8. Furniture finishing and refinishing.
9. Warehousing.
10. Welding or machine shops.

Q. Fine Art/Craft/Music Instruction. Instruction in a fine art, craft or music is a permitted home occupation.

R. Medical Marihuana. A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d) and the requirements of this Chapter, shall be allowed as a home occupation. Nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since Federal law is not affected by that Act or the General Rules, nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
2. A registered primary caregiver must be located outside of a one-thousand (1,000)-foot radius from any school, including child care or day care facility, to insure community compliance with Federal "Drug-Free School Zone" requirements;
3. Not more than one (1) primary caregiver shall be permitted to service qualifying patients on a parcel;
4. Not more than five (5) qualifying patients shall be assisted with the medical use of marihuana within any given calendar week;
5. A primary caregiver shall register for a business license with the City Clerk, if the primary caregiver is not the owner of the premises then consent must be obtained from the property owner to ensure the owner's knowledge of the use;
6. All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying

patient, as reviewed and approved by the Building Official and the Grand Rapids Police Department;

7. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located;
8. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11pm to 7am shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties;
9. That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Grand Rapids Fire Department to insure compliance with the Michigan Fire Protection Code; and
10. The premises shall be open for inspection upon request by the Building Official, the Fire Department and law enforcement officials for compliance with all applicable laws and rules, without a warrant and without delay, during the stated hours of operation/use and at such other times as anyone is present on the premises.

Article 16 "Definitions" be amended by adding the following to "Definitions – M":

"MARIHUANA, also known as MARIJUANA, also known as CANNABIS

That term shall have the meaning given to it in section 7601 of the Michigan public health code, 1978 PAS 368, MCL 333.7106, as is referred to in section 3(d) of The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d). Any other term pertaining to marihuana used in this Chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act."

"MEDICAL USE OF MARIHUANA

The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d)."

MINUTES
GRAND RAPIDS PLANNING COMMISSION
January 14, 2010
1:00 P.M., RM. 201, DEVELOPMENT CENTER

Members Present: Paul Potter, Mary Angelo, Harold Hamilton, Nate Koetje, Patrick Miles, Samuel Ojo, James Doezema and Stephen Ruis

Members Absent: Janel Curry

City Staff: Planning Director Suzanne Schulz, City Attorney Stan Bakita, Elizabeth Zeller, Landon Bartley, Kay Moul, and Carol Gornowich - recording secretary

BUSINESS MEETING

Medical Marijuana Agenda Item - Ms. Schulz related that there are citizens advocating for different methods of control than what staff is suggesting. There are some that have a financial investment already. Ms. Schulz explained that legal counsel Scott Smith held a meeting with area municipal attorneys, both in public and private practice, to gain their perspective. They were provided with the draft language and they all agreed that it wouldn't hold up to outright prohibit medical marijuana because of Federal law. What they don't want to have happen is to have it tested in court and in the meantime have business established that would then be grandfathered in. Ms. Schulz explained that there were some changes made to the draft based on her meeting with Mr. Potter and other comments received. She related that just last evening while doing more research regarding drug free school zones she learned that Jim McCurtis from the Michigan Department of Community Health made a statement, based on the advice of his legal counsel, that marijuana dispensaries and grow facilities are not addressed under the Michigan Medical Marijuana Act and are therefore not permissible under State or Federal law. Ms. Schulz feels this strengthens their arguments and the proposed ordinance. Ms. Schulz related that staff is now proposing to eliminate the medical facility piece of the draft because they feel it will be problematic in terms of loop holes, interpretation, administration and enforcement. Based on the input from the attorneys that attended the recent meeting they too shared those concerns. Therefore, the code will limit the use to home occupations and there are a number of restrictions. Mr. Potter suggested putting the Federal law piece at the front making it very clear that there is no intent to imply that permission is granted on behalf of the Federal government.

Mr. Potter related that he feels what has been drafted is a good piece of work that he can support. The intent is to keep it small and within the spirit and intent of the law. It was never intended to be a big business opportunity; it is for those that desire to use the product for medicinal purposes.

Ms. Schulz explained that if the Commission isn't comfortable making a recommendation to the City Commission today it could be tabled. The only concern is that it be addressed within the moratorium time frame. Mr. Bakita advised the Commission that, after public comment, if they are comfortable moving it forward to do so. If something comes to staff's attention they don't have to take it to the City Commission immediately.

Mr. Ojo noted that the model in California had a lot of unintended consequences.

Ms. Schulz agreed. She related that the Commission will likely here arguments as to the tax benefits to the City. City Attorney Catherine Mish has advised that per State law they cannot impose a special income tax, etc.

Ms. Schulz related that in California there are more dispensaries than Starbucks and McDonalds combined. In Denver there are now more dispensaries than Starbucks.

Mr. Ruis noted that we wouldn't be permitting dispensaries.

Mr. Bakita agreed and that is also the standpoint of the Department of Community Health.

Mr. Ruis suggested including dispensaries in the list of uses that are prohibited. Ms. Schulz agreed that could be added to the table.

REGULAR MEETING

Medical Marijuana – Special Session to Discuss Medical Marijuana Zoning Ordinance Text Amendments (Zone Change).

The request of the Planning Department to amend various Sections of the Zoning Ordinance (Chapter 61 of the City Code) to address the sale and dispensation of medical marijuana. The proposed amendments and additions to the Zoning Ordinance will be evaluated by the Planning Commission for compliance with the standards contained in Section 5.12.13. of the Zoning Ordinance, and forwarded to the City Commission for final approval. ZC-10)

Mr. Potter explained that this item is an informational study session on various approaches the Planning Commission may wish to consider in making a recommendation to the City Commission with respect to the recently passed Medical Marijuana legislation.

Mr. Potter explained that this session has three purposes: 1) To hear new information from staff; 2) Learn where staff is at in this process and what the Planning Department is recommending as a course of action. Public comment will be heard and comments will be limited to three minutes. 3) Exchange ideas amongst Commission members.

Ms. Schulz recalled that the Planning Commission held a discussion on December 10, 2009 when proposed language was introduced as text amendments to the Zoning Ordinance. The voters of the State of Michigan adopted legislation known as the Michigan Medical Marijuana Act. Staff researched the number of Grand Rapidsians that voted for this and found that it was approximately 63% of the electorate and there was approximately a 60% turn out. Therefore, it is recognized that the voters of the City do support this. The Act defines Caregivers and Qualifying Patients and, as staff reads the Act, the interpretation is that it is defined as an intimate relationship between the two. The opinion received from the Michigan Department of Community Health is that the Act doesn't envision dispensaries. Ms. Schulz referred to the statement made by the Public Information Officer of the Michigan Department of Community Health supporting that opinion. In states where dispensaries are allowed, dispensaries are identified in the Act and there are associated regulations. That is not provided for in the Michigan Act. The best method for Caregivers to provide service to Qualifying Patients has been considered with inside and outside counsel. There is no question about Qualifying Patients or their right to medical marijuana or their ability to grow it in their own home or have access to it. What is specifically being considered is Caregivers and how the service is provided as a land use. Considering the land use implications it is necessary to recognize the demonstrated need within the community and assure there is sufficient access to medical marijuana. Once such uses are allowed there are certain property rights that go with providing locations for the provision of services related to medical marijuana

should zoning designations be changed. A number of different models have been reviewed, including those from Colorado and California and specifically how it relates to State law, as well as what case law has been in Michigan on land use issues.

Ms. Schulz related that this past week staff met with 15 other municipal attorneys from the region that either work for or on behalf of communities. They were provided a broad scope of alternatives and what the thoughts have been so far. Recognizing that the State law isn't consistent with the Federal law, the first question posed to them was whether outright prohibition is possible. The general consensus was that there would be a myriad of issues should that approach be pursued. Dispensaries, large growing facilities and larger scale business activities were then considered. There is nothing in the State Act that defines those, allows for them, or describes how they should be regulated. Based on the opinion of the Michigan Department of Community Health, that because the Act is silent on that then therefore it isn't permissible and because in other communities where it is permitted it is addressed in the Act, there isn't a great deal of comfort in how it would be regulated. Lt. Nawrocki is present from the Grand Rapids Vice Unit to provide some insight on that as well. In considering what has happened in California and Colorado, where there are more dispensaries than Starbucks, there is great concern about proliferation. Typically what communities have done is treat them as a Special Land Use. When thinking about how Special Land Uses are considered in this community there are concerns about privacy as well as what Standards would be used, precedent, and how to determine potential detriment and impact. Regulating the use as a medical care facility and permitting it if truly for medical purposes was considered. In discussing that with local attorneys and internally with staff, how enforcement and administration would be addressed, it was questioned how they would distinguish a clinic from a dispensary. There are also problems with Federal law since doctors and pharmacists can't handle this product without risk of losing their license. It was also considered that there could be a Caregiver on staff and the caregiver could provide the service. Another option might be to sublet space within a pharmacy. There remains concern from an enforcement standpoint as to determining where the line is between a dispensary and a medical facility. Ms. Schulz explained that they also looked at home occupations, which seems to get to the intent of the Act, availability and allowing the access to Qualifying Patients and Caregivers in the intimate setting. State law says that a caregiver can service up to five patients and for each patient they are permitted 12 plants and 2.5 oz. of dried marijuana on hand. Ms. Schulz explained again that they were looking at the regulation of the Caregiver/Patient relationship of 5 to 1, understanding that there is a desire to provide the service and make Caregivers available to their patients. The home occupation piece became prominent in staff's thinking as the best way to manage the use.

Ms. Schulz drew the Commission's attention to the text noting that amendments were made to the draft they were presented with in December based on the conversations they had with the Department of Community Health, area attorneys and counsel about what the recommended approach is. Amendments to the home occupation language will provide more protection to neighborhoods.

Ms. Schulz briefly explained the general provisions for Home Occupations, Section 5.9.13. Under the general provisions, D limits the number of customer, clients, students or patients to no more than 2 on the premises in which a home occupation is located at any one time. Current home occupation policy is that the operation wouldn't involve people coming to your home. This policy may be something that the Commission may wish to consider for home occupations in general. Ms. Schulz continued explaining that all home occupations would be required to obtain a business license from the City Clerk, which is very common in communities throughout the country and also something the Assessor and Income Tax Departments have been advocating for for some time. The proposed language would prohibit interior alterations of the home that would materially alter the residential use of the property. Hours of operation are limited from 7 a.m. to 8 p.m. and the

operator of the home occupation will be required to reside within the dwelling unit where the home occupation is conducted. All building, housing, fire and other local or State codes shall be adhered to, which is standard throughout the ordinance. P addresses food handling and is more inclusive. R is specific to Medical Marijuana and specifically the registered primary caregiver. There has been a suggestion that the acknowledgment of Federal law and the complications of inconsistencies between State and Federal law be placed at the beginning making it more apparent so that operators enter into the use with full knowledge. The first point under R requires compliance with the State Act and the General Rules of the MI Dept. of Community Health. Point two deals with the Federal requirements for drug-free school zones. Point three limits the number of primary caregivers on a parcel to one; and point four limits assistance to qualifying patients to not more than five assisted per calendar week. Because it is a home occupation it is intended to be a small-scale intimate relationship between the qualified patient and caregiver, not a large commercial operation. Point six reiterates the requirement for the license by the City Clerk and also requires consent of the property owner to demonstrate their knowledge of the request.

Ms. Schulz explained point four further indicating that the concern relates to the lack of rules with respect to changing qualifying patients. Caregivers are required to provide the State with their patient's names and they cannot begin an operation until they have a patient. There is nothing in the General Rules limiting how often a caregiver can change qualifying patients. Patient changes must also be registered with the State.

Ms. Schulz continued the explanation of the text relating that point seven reemphasizes the State law requirement that the medical marijuana be contained in an enclosed, locked facility and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient. Point eight requires that all necessary permits are obtained if there will be a growing operation. Point nine addresses ambient lighting and requires shielding of the lighting without alteration to the exterior of the residence to prevent spillage that may create a distraction for adjacent residential properties. Point ten subjects the portion of the structure where energy usage and heat exceeds typical residential use and where the storage of any chemicals may take place to inspection and approval by the Grand Rapids Fire Dept. to insure compliance with the MI Fire Protection Code. Point eleven authorizes inspection by the Building Official, Fire Dept. and law enforcement officials upon request to ensure compliance with all applicable laws and rules, without a warrant and without delay, during the stated hours of operation/use and at such other times as anyone is present on the premises.

Attorney Scott Smith emphasized that the important purpose of the Act is to allow patients to get medicine that is found to be necessary to address pain, nausea or other medical conditions. The intent of the ordinance is to allow for what the Act was designed to permit without having adverse impacts. It was not designed to be an entrepreneurial opportunity or for economic development. It was designed to provide an intimate relationship between a caregiver and a patient. It was thought that many patients will grow their own and those that can't or choose not too will have a small intimate relationship with a caregiver who can provide for a small number of patients what is needed. In taking that at face value, Ms. Schulz has done a nice job of designing the ordinance to address just that situation. Another thing that was important was, if home occupations are permitted at all it would be difficult from a land use perspective to distinguish this particular type of home occupation from others. Because there isn't a good basis to distinguish this from other home occupations then it was determined that it should probably be permitted and if permitted then to ensure that it is regulated in a way that provides for the health, safety and general welfare of those in the vicinity.

Mr. Doezema asked if there is anything in the Act that requires the municipality to do anything.

Mr. Bakita responded relating that the Zoning Enabling Legislation provides that a community can't exclude a land use in the face of a demonstrated need for the use in the community or in the vicinity of the community. Therefore, from a standpoint of exclusionary zoning they felt it should be addressed.

Mr. Doezema clarified however that there is nothing in the Act that says a municipality has to do something. This is a reaction to the Act.

Mr. Bakita agreed that there is nothing in the Act but it is the exclusionary zoning aspect of the Enabling Legislation that drives the response.

Mr. Smith added that it is a choice on the part of the City to get ahead of this so that if it is going to become a home occupation, and would otherwise be permitted under the ordinance as a home occupation or otherwise allowable in another zoning district in the City, the desire is to be ahead of it and set the parameters in which it can occur.

Mr. Doezema suggested that at some point someone will be cited for violating the ordinance. The Act doesn't specify how municipalities are supposed to regulate it and when someone goes to the State for their registration the State won't be asking whether they have the necessary municipality permissions.

Mr. Smith agreed that they won't be doing the same thing that the Secretary of State does for auto dealers.

Mr. Doezema asked if the State law will pre-empt this.

Mr. Smith replied that he doesn't believe the State law will pre-empt this anymore than State law would pre-empt the City in terms of allowing any other business or any other licensed business. The State law also allows doctors, accountants and others to have business locations and to set up a business by simply having a license but it doesn't say they can do it anywhere they want to do it; there are still requirements to comply with local zoning ordinances. Mr. Smith feels fairly confident that they can beat a pre-emption argument.

Mr. Doezema feels it would have been helpful if the legislature had put some pre-emption language in the Act.

Mr. Smith and Mr. Bakita explained that it was an initiated Act. There are a number of things built into the statute that make it difficult, which is because it was initiated and not a legislative act.

Mr. Doezema clarified that he wasn't suggesting they shouldn't do something; he is just thinking that down the road it will have to be defended. He feels they have done everything they can to come up with something that works and has a sound basis to defend but that doesn't mean it won't be challenged.

Mr. Potter invited comments from Lt. Nawrocki of the Grand Rapids Vice Unit.

Lt. Nawrocki explained that they have been involved since the beginning of the consideration of passing of the law. The Grand Rapids Police Dept. respects the citizens of Grand Rapids that passed the Act but they want the law to be enforced and to comply with what it was intended to do. It was intended to provide medical relief to the citizens. The GRPD was opposed to the co-ops and distribution centers from the beginning, as they weren't part of the Act and because they are more business related rather than a service to treat the person who has the doctor's permission. With

that they would anticipate businesses making money and if they are making money have the opportunity to make more money and then, do they charge more for their services and does that cross the line into a selling operation vs. an operation recouping their costs. The citizens passed the law but in talking with citizens they don't want the house next door to have 25-35 people coming 24 hours a day for medical marijuana. Having co-ops or large gathering spots where people use the product and then go out in public is also undesirable. Lt. Nawrocki explained that he has been involved in a multitude of search warrants related to marijuana and it does affect one's ability to think as well as their motor skills. Therefore, they didn't feel the large gathering areas for use would be good for the community. The GRPD respects the decision that if in a home and a patient grows their own plants or goes to a place to receive their medical relief that that is what the State approved and they are fine with that. They would be naïve to believe that people haven't been using marijuana for medical reasons in Grand Rapids for many years. They don't investigate a lot of those cases. The cases they have investigated, where people claim medicinal use, are because they have also sold the marijuana and exceeded the amount permitted. Those things will draw the attention of the police and that is what they are trying to prevent while at the same time allowing the citizens and caregivers to provide for what the Act was intended for and the relief that the doctors believe they can receive from it.

Mr. Ojo asked how they ensure adequate enforcement and guard against unintended consequences.

Lt. Nawrocki replied that this is new to the entire State. What they are hoping for is the one on one patient relationships, which would limit law enforcement interaction and concern for what is going on in the community and provide the safer environment. It will be a learning process for everyone in law enforcement and there isn't an easy answer out there with the way the law was written. From their position, while they don't want to be arresting people that comply, they need some cases that the courts can address to clear it up. If they can protect the community while at the same time respect what the citizens want that is what they hope to provide.

Ms. Schulz noted Lt. Nawrocki's previous comment that if there is illegal activity taking place it will be found. If there is a true caregiver/patient relationship it shouldn't be noticeable.

Lt. Nawrocki agreed; they will likely never hear about that. If they aren't selling it or trading it for other drugs and it isn't happening out on the streets they won't hear about it and they will be able to go about their relationship. It is when they step out of that scope, it becomes a money maker, and/or involves more people than permitted that is when the police get involved.

Mr. Potter opened the floor to public comment.

Ginger related that when this was first presented in December her thought was "no way". She finds that this is a Pandora's box. The State made the law quite vague and tied the hands of law enforcement to identify what is criminal and what is not. Shortly after the Commission had the first discussion an article came out about people who want to sell medical marijuana. The article identified a specific person. Ginger related that she ran a background check on that person and would hope that he is not one of the people granted a caregiver license. Ginger asked if the intent is to permit a caregiver to make money. She asked what is to prevent someone from growing more than the permitted number of plants per patient and selling it illegally. Ginger suggested that it ties the hands of law enforcement while the number of officers is already being reduced. It will be up to the citizens to monitor the home occupations. She feels that because the law is vague it is necessary for legislatures to define it further to help law enforcement and municipalities to define what is required of them. Ginger complimented the research that went into the proposed ordinance but feels there are too many unanswered questions. Records indicate that to date there are 6,000

people with registered cards. There are 10 million people in the State of Michigan. If there are 2,000 registered cards in Kent County where are they currently getting their marijuana? Why do they now need to go to a dispensary rather than a doctor or pharmacy? It would be her thought to go to a pharmacy, as other controlled substances aren't legally sold out of homes.

David Charles Wheeler, 335 James SE, feels that people are on two sides of this issue; either excited or upset about it. If he chooses to drive without a seat belt it is because he feels more comfortable or safe without it but if he is pulled over and gets a ticket he has to deal with it. This is a law that has been adopted by Michigan and other states. It was made this tight and confusing to give the people that use medical marijuana protection. Mr. Wheeler feels this provides a great opportunity for the City to evolve and realize that times are changing and that there is a younger generation. He related that he is an approved patient and caregiver and he feels it is an amazing thing. With respect to the business aspect there has been an expressed desire for a personal relationship between the caregivers and the patients while at the same time it is being labeled as a home occupation. That labels it a business. Mr. Wheeler has also heard the question that since it is medicine should people make money off of it. He challenged anyone to name one medicine that someone doesn't make money off of. Mr. Wheeler feels that dispensaries are the way to go and he feels it would benefit the enforcement aspect as well. It would be a controlled area in the City where people can go and police know where they are. If permitted as a home occupation the number of plants someone is growing won't be known and there will still be people doing it illegally. If there are controlled areas where people can go, the police will be able to enforce the law which clearly states that it can't be used in a public place or drive under the influence. Mr. Wheeler doesn't feel it is possible, without dispensaries, to control the Act and help people to feel safe. Mr. Wheeler related that he read the draft of the ordinance and feels it breaches the confidentiality of the Act with the licensing requirement. A music instructor conducting a home occupation isn't required to submit to inspections. A person with an herbal garden growing operation in their home is not required to comply with the regulations proposed.

David Overholt, resident of Montcalm County, circulated a card for the Commission's information. He related that it all starts with the card and if one doesn't know the process it is hard to make a decision about it. From what he has heard today he doesn't believe there is a clear understanding. Mr. Overholt recognizes the effort that has been put into this and appreciates it but more information is necessary. Mr. Overholt related that in Montcalm County they have a club of 200+ members and the community has embraced everything they have done. They are bringing 200 people every Thursday into their club meeting. Shopkeepers are relating that their businesses have benefited with additional fuel sales, etc. Mr. Overholt related that they recently added a certification center for a doctor to come in and license patients legally so people don't have to go to Detroit or sneak into a hotel room or meet with a doctor who sneaks in from Detroit and takes \$10,000 - \$15,000 back to that city with him everyday. They are working in a safe environment where people can come in and see a doctor, respectfully build a confidential relationship and go on with what they want to do. In the club atmosphere they don't ever want a caregiver or patient to know another's address because they don't know if everyone is a good person. Mr. Overholt explained that one person could tell 40 others where he lives and he would be at greater risk of someone breaking into his home. Mr. Overholt related that he lives in the country, in a zero zone area. In a zoned community if every other home is growing and people know where those locations are there will be people lurking between buildings and residents will be coming home from work and stumbling across others trying to rob those facilities. Mr. Overholt stated that they are allowed to evolve as a community and they are trying to bring the community into the Act. Mr. Overholt stated that what he is trying to propose is to bring their clubs into this community and help this community grow what they want to see. The 63% that voted will participate if there is a place for them to go and do this legally. Mr. Overholt stated that in their club, that now includes 35 caregivers, they tell everyone that if there is a patient coming daily for medicine and comes for 2.5

ounces a day they should be reported because that person is putting it on the street. It is that simple. If there are people throughout the area doing whatever they want it is more difficult to control and they can't advise on what is right and what's wrong. They know what's right; that children shouldn't have this but that people with illnesses deserve to. Mr. Overholt related that they work with a cancer hospital in Greenville and wish to do things in the medical field to prove their legitimacy not with the people that are illegally making thousands of dollars. They are fighting an 80-year battle of negative propaganda that this is bad and a gateway drug that will ruin the children. Mr. Overholt stated that his children know exactly what he does and he hopes that someday they follow his footsteps because they are changing the State from Sydney; people believe in what they are doing; they are here to help. As more people learn that they don't have to be afraid or be stereotyped any more the masses will come out and these locations are necessary to serve those people in a legal, safe manner whether it is closed circuit television at the police departments and dispensaries, whatever the case may be. Mr. Overholt stated that they want to work with the police and implement the same jars, same labels so that illegal activity can be more easily recognized.

Mr. Ojo asked why there is no photo on the identification card.

Mr. Overholt explained that the State didn't require a photo for the certification.

Mr. Ojo asked how the attractive nuisance issue is prevented. There have been instances in California where a dispensary house was robbed and people were killed.

Mr. Overholt replied that banks are robbed every day and people are killed. There is no way to completely prevent crime but they try to take every precaution they can. At the same time, if these locations aren't set up then there will be the exact situation that Ginger spoke of; moving product out the back doors. The Act allows 12 plants per patient but it isn't limited to 12 plants per year. Some can grow up to eight harvests a year. That is what they don't want. When someone has the approval to grow 50 plants they don't want them to have 50 plants growing at one time. 25 would have to be in a vegetation stage and 25 in a dark room stage so that one is never overloaded with medicine. The patients have to be supplied as they need it and the relationship has to be built with the patient to determine how often they need their medicine. They are creating all of this in a working environment where they have nothing to follow. Mr. Overholt noted the references to California and related that the Michigan Act was developed from the Maryland and New Jersey Acts, not California. California is really out there and they don't want to be like California. Mr. Overholt stated that the reason they are here today is to avoid those consequences. They can be addressed one by one and overcome. They have taken citizens that yesterday were illegal and today are legal. They are now active community members that can go out and do things that they couldn't do in the past. If it isn't looked at that way then they are looking at a piece of revenue they will miss. There are communities that are already beginning to look at the revenue factor of this.

Mr. Potter asked how you get prosperity out of an item that the State prohibits making a profit on.

Mr. Overholt replied that there are a number of avenues aside from the medicine that are generating revenue. He provided examples such as the certification, the caregiver network, the grow stores already operating, the supply houses for patient supplies. Those supply houses are already legal businesses in operation that have been in this very community for years; Shakedown Street, Growco, Hydroworld. Everyone knows what those places have been doing.

Mr. Wheeler offered additional comments. He feels the California situation is great for a debate but Grand Rapids is nothing like California. His understanding of California is peace, love, happiness, and hippies. Grand Rapids has nothing like that. Mr. Wheeler agreed with an argument made by

Mr. Overholt in support of dispensaries indicating that if people are growing at home it remains an illegal drug. If the City permits people to grow at home while it remains an illegal drug then they are putting people in the homes in jeopardy.

Mr. Potter argued that it is a Federal issue. The fact remains that it is a schedule one drug that is illegal by Federal legislation. Someone can lose their house, car and everything else if the Federal government decides to come in.

Mr. Hamilton agreed that until the Federal government says otherwise it remains illegal. What's to say that a new administration won't reverse the hands off approach that the current administration has taken? Mr. Hamilton stated that he isn't opposed to the medicinal use but wants the police department to know the locations of the home occupations. Mr. Hamilton related that he was initially opposed to the home occupation aspect but as written and with the limits he is supportive.

Mr. Wheeler concluded his comments stating that his hope is that as they learn more they realize the great opportunity this is for the City. The reason he is here is because he wants to be safe, doesn't want to be a nuisance to the city and doesn't want problems with the police. With what is being proposed he doesn't personally feel they are getting anywhere. He would like to see it get somewhere so that he can do his job as a caregiver and help his patients.

Mr. Ojo noted that there have been so many communities in California that have been negatively impacted.

Mr. Potter indicated that he has considered this issue and there are three choices for them to consider: 1) To take no action because it is a clear violation of Federal law and the soundness of that would be that this community has never approved any zoning in violation of Federal or State law; 2) To recognize the conflict between the Federal and State laws. What has been drafted clearly states that and they can proceed to draft an ordinance that meets the spirit and intent of the State law, which is what staff is trying to do; 3) To limit the production and sale of marijuana to a specifically zoned area within the City rather than having it more widespread as home based businesses. Mr. Potter feels those are the three main paths they could go and that staff has done an excellent job as well as the outside counsel.

Ms. Schulz clarified that the action the Planning Commission has to take is to make a recommendation to the City Commission; the Planning Commission isn't approving or denying.

Mr. Doezema stated that he has to defer to staff and the outside counsel. They have spent a lot of time on this complicated issue. The options for how to best regulate this have been considered and this is what is being recommended. It is legal and somewhat practical.

Mr. Potter stated that it meets the spirit and intent and the desire is to limit it to what it was intended to be.

Ms. Schulz explained that they looked at three things primarily: 1) administration; 2) enforcement; 3) whether it can legally be upheld. From the administrative aspect they considered how it could be narrowly defined enough so that an operation either does or doesn't meet code; that as many gray areas are eliminated as possible. From the enforcement aspect, Lt. Nawrocki has related that their ability to be able to understand and work with this type of provision is possible.

Mr. Bakita spoke to legal issues. He explained that he has been looking at this and working on it periodically for nearly a year. Because it has been so complicated it has taken that long and as they get further into it they realize there is no easy answer. They don't know that this is the best or

ultimate approach but at this point it is something they feel is workable. The danger of not doing anything is that they will either get a claim of exclusionary zoning and have grow facilities and dispensaries crop up all over and a judge rule that the City has unlawfully excluded the use and permit those that are in existence. That may leave them with a situation that no one favors. Mr. Bakita feels this is a reasonable regulation. Whether it is the final answer, they don't know at this point but until there is some appellate case law interpreting various aspects of the legislation and rules of the Department of Community Health it is a pretty good proposal to move forward and adopt.

Mr. Ruis asked Mr. Bakita to speak to the confidentiality aspect given the language that requires registration.

Mr. Bakita explained that his understanding is that there are patient confidentiality protections but he doesn't believe the caregiver has the confidentiality rights. Only caregivers are being asked to register, not the patients, unless they are also a caregiver.

Ms. Schulz added that the ordinance isn't asking for a list of patients.

Mr. Smith added that the statute does provide confidentiality to caregivers also. The State won't disclose if asked if a particular person is a caregiver. If law enforcement wants to know ahead of time, before executing a search warrant, the State won't give that information. However, as long as these are treated as every other home occupation and if registration is required for all home occupations he feels that is a good thing. It also addresses the concern that one of the speakers had about safety; there is an awareness of the home business locations allowing for the provision of additional police vigilance if the City chose to do that.

Mr. Ruis stated that it seems to be the lynch pin in allowing it as a home occupation. If that were to be challenged then they would have a mess on their hands.

Mr. Smith stated it would be the same if it were a home occupation, a commercial district or an industrial district. It would still be necessary to identify who it is and what the particular use is.

Mr. Miles stated that from a zoning standpoint there is no good solution.

Mr. Potter agreed there are consequences and unintended consequences no matter what they do but he feels this is a good opportunity to give it their best shot.

Mr. Doezeema MOVED TO FORWARD THE MOST RECENTLY DRAFTED FORM OF THE TEXT TO THE CITY COMMISSION WITH A RECOMMENDATION THAT THE THEY ADOPT THE ORDINANCE. SUPPORTED by Mr. Koetje. MOTION CARRIED UNANIMOUSLY.



PLANNING AND ZONING
COMMUNITY DEVELOPMENT
231.398.2805
FAX 231.723-1546
www.ci.manistee.mi.us

MEMORANDUM

TO: Planning Commissioners

FROM:  Jon R. Rose
Community Development Director

DATE: September 9, 2010

RE: United State Bicycle Route 35 Public Hearing

Commissioners, attached is a copy of the Public Hearing Notice for the United States Bicycle Route 35. Copies of the maps for our area are also included. Members of the Planning Commission are invited to attend.

:djb

Denise Blakeslee

From: Sarah Merz [smerz@nwm.cog.mi.us]
Sent: Thursday, September 09, 2010 12:03 PM
To: Sarah Merz
Subject: Reminder: United States Bicycle Route 35 Public Hearing
Attachments: 04 USBRSCorridorMap.pdf

Public Notice
United States Bicycle Route 35 Public Hearing

The Corridor Committee of the Michigan Section of United States Bicycle Route 35 is proposing the designation of a bicycle route along the coast of Lake Michigan and crossing the Upper Peninsula. The route would run approximately 500 miles, from New Buffalo, Michigan to Sault Ste. Marie, Michigan, connecting cities along the way.

The proposed route is a mapped route, and in the future there may be signage along the route. The route is a recommendation as to the most suitable roads and trails for a touring bicyclist. There is no proposed construction; the route takes advantage of existing road and trail facilities.

The Corridor Committee is made up of representatives of the Cities of Sault Ste. Marie, Petoskey, Traverse City, Manistee, Ludington, Muskegon, Holland, South Haven and Saint Joseph. The role of the Corridor Committee is to propose a route to the Michigan Department of Transportation, which will consider the route, and if acceptable, apply for national recognition as a United States Bicycle Route.

The route is being developed with input from local road agencies such as road commissions, municipalities and the Michigan Department of Transportation. Input has been requested from state and local bicycle clubs, as well as bicycle enthusiasts. More information on the U.S. Bike Route system is available from the Adventure Cycling Association website. Detailed maps are available by web search for "USBR 35 Google maps".

A public hearing to take comment on the Michigan Section of USBR 35 will be held at:
6:00 PM on September 13, 2010, at the City of Manistee, located at 70 Maple Street, Manistee, MI. or
6:00 PM on September 21, 2010, at the Emmet County Fairgrounds located at 1129 Charlevoix Avenue, Petoskey, MI. or
6:00 PM on September 28, 2010, at the Traverse City MI Works! Conference Room located at 1209 S. Garfield Road, Traverse City, MI.

Maps of the route will be available and public comment and input on the routes is welcome. Please direct questions and comments on the route to pvandenbosch@south-haven.com.

Paul VandenBosch, Secretary
USBR 35 Corridor Committee

~ Sarah

Sarah Merz
GIS Analyst
Northwest MI Council of Governments
PO Box 506
Traverse City, MI 49685

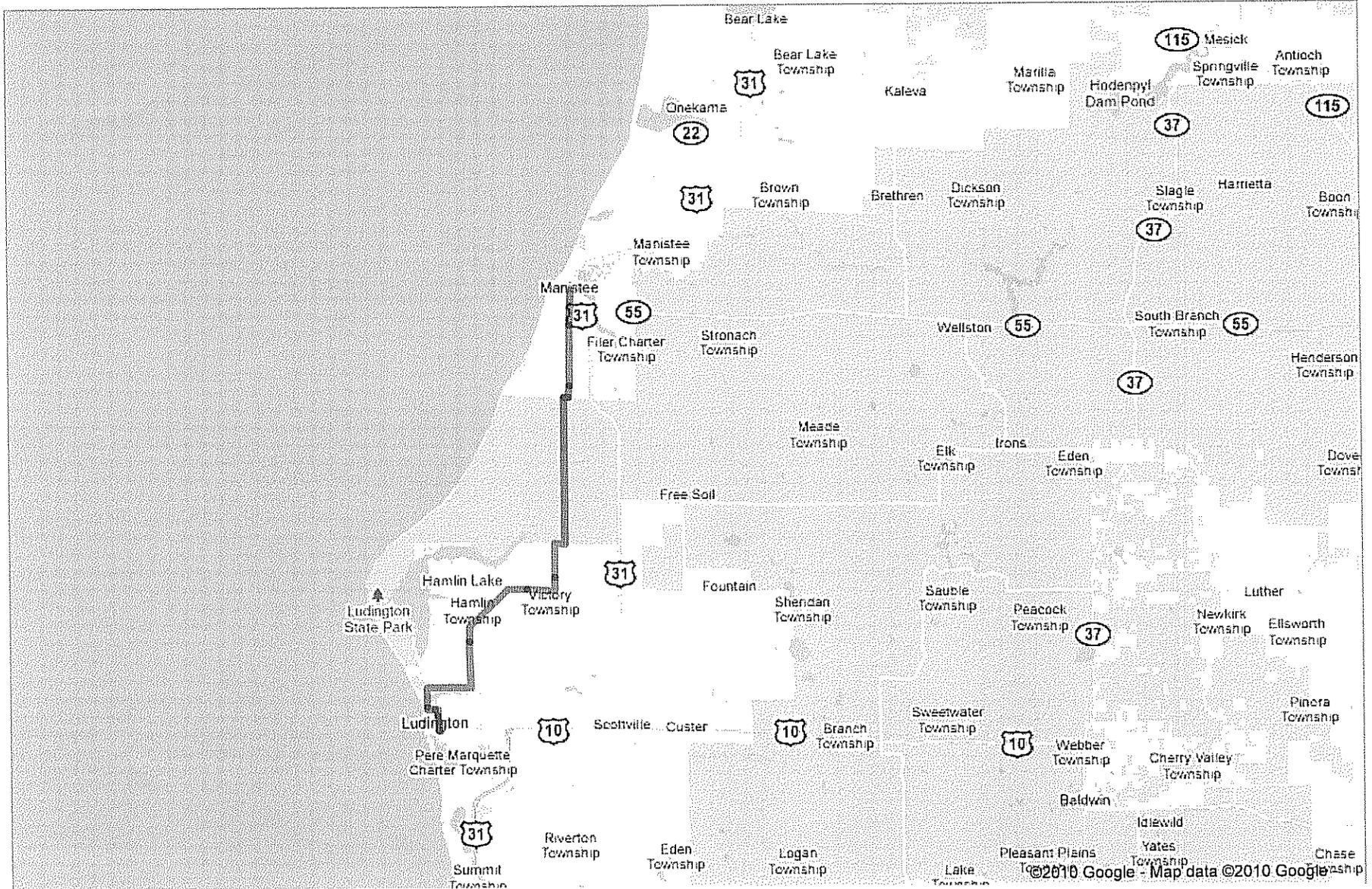
Phone: (231) 929-5091

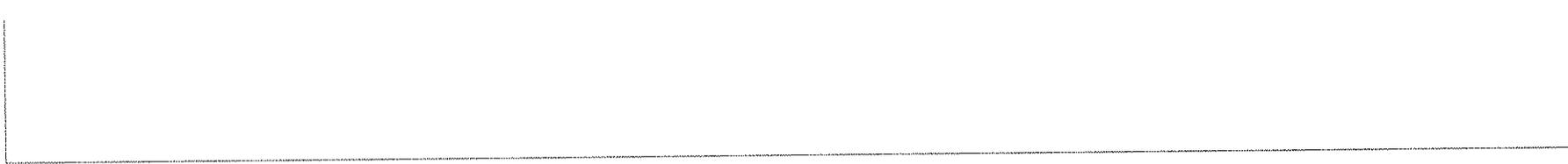
Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.

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USBR 35 Ludington to Manistee

Ready for Public Hearing

582 views - Public

Created on Dec 21, 2009 - Updated Jul 13

By [Paul](#) - 4 Collaborators

Ludington to Manistee

Starting from Maple St/Washington St

- 1 Head **south** on **Maple St/Washington St** toward **River St** - go **5.0 mi**
Continue to follow **Maple St**
- 2 Turn **right** at **W County Line Rd** - go **0.2 mi**
- 3 Take the **1st left** onto **Quarterline Rd** - go **6.7 mi**
- 4 Turn **right** at **W Townline Rd** - go **0.5 mi**
- 5 Take the **1st left** onto **N Stiles Rd** - go **2.1 mi**
- 6 Turn **right** at **W Fountain Rd** - go **2.2 mi**
- 7 Continue onto **W Angling Rd** - go **2.5 mi**
- 8 Turn **left** at **N Jebavy Dr** - go **1.2 mi**
- 9 Continue straight to stay on **N Jebavy Dr** - go **1.6 mi**
- 10 Turn **right** at **W Jagger Rd** - go **2.0 mi**
- 11 Turn **left** at **M-116 S/N Lakeshore Dr** - go **1.1 mi**
- 12 Turn **left** at **Bryant Rd** - go **0.5 mi**
- 13 Turn **right** at **N Rath Ave** - go **1.0 mi**
- 14 Turn **left** at **W Ludington Ave** - go **371 ft**

Arriving at **W Ludington Ave**

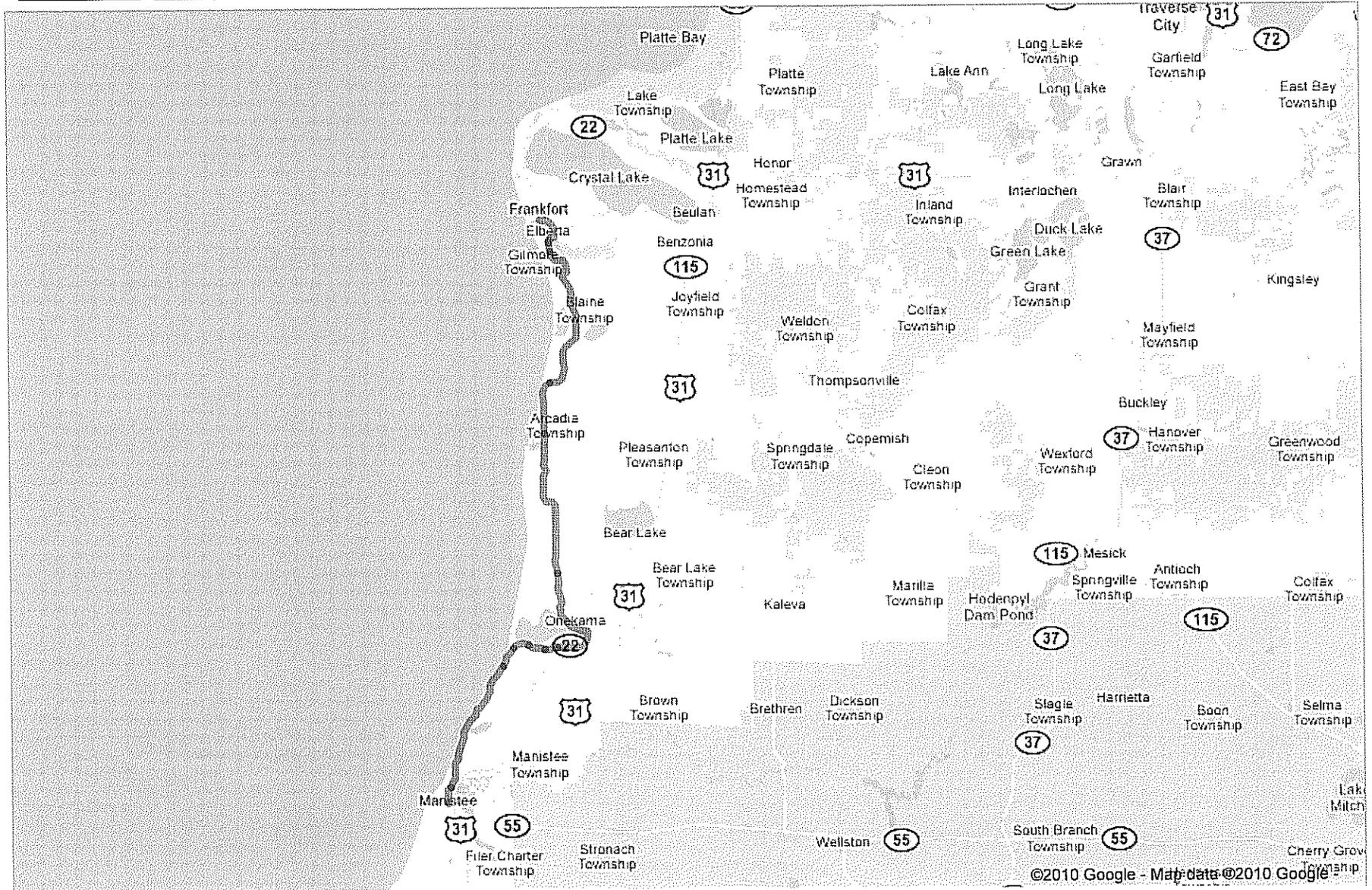
Total: **26.6 mi** - about **1 hour 6 mins**

Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.

[Get Directions](#) [My Maps](#)

[RSS](#) [View in Google Earth](#) [Print](#) [Send](#) [Link](#)



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USBR 35 Manistee to Frankfort

Ready for Public Hearing.

519 views - Public

Created on Dec 21, 2009 - Updated Jul 15

By [Paul](#) - 4 Collaborators

Manistee to Frankfort

Starting from Frankfort Ave/Lake St

- 1 Head **west** on **M-22 S/Frankfort Ave/Lake St** toward **Betsie Valley Trail** - go **20.9 mi**
Continue to follow M-22 S
- 2 Slight **right** at **M-22 S/1st St** - go **1.8 mi**
Continue to follow M-22 S
- 3 Turn **right** at **Crescent Beach Rd** - go **1.8 mi**
- 4 Continue onto **Lakeshore Rd** - go **7.3 mi**
- 5 Turn **right** at **Veterans Oak Grove Dr** - go **0.7 mi**
- 6 Turn **left** at **Washington St** - go **0.7 mi**
Destination will be on the left

Arriving at Maple St/Washington St

Total: **33.1 mi** - about **56 mins**

Betsie Valley Trailway

CORRIDOR PLAN

APRIL 2010

THE GOAL OF THE UNITED STATES BICYCLE ROUTE SYSTEM IS TO CONNECT AMERICA THROUGH A NETWORK OF NUMBERED INTERSTATE BICYCLE ROUTES.

THE UNITED STATES BICYCLE ROUTE SYSTEM

Adventure Cycling Association
America's bicycle travel experts

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS
AASHTO
THE VOICE OF TRANSPORTATION



THIS MAP details the United States Bicycle Route System Corridor Plan, which lays the framework for discussion, planning, and implementation of interstate bicycle routes.

PRIORITIZED CORRIDORS ARE NOT routes, but 50-mile wide areas where a route may be developed. These corridors have been assigned route numbers.

ALTERNATE CORRIDORS provide additional consideration for interstate routing. These corridors have not been assigned route numbers but may be prioritized. Corridors may be added or existing corridors shifted as needed.

THE TWO ESTABLISHED ROUTES, US Bicycle Route 1 in Virginia & North Carolina and US Bicycle Route 76 in Virginia, Kentucky & Illinois were designated through AASHTO in the 1980's.