ACME TOWNSHIP PLANNING COMMISSION MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
October 10th, 2016 7:00 p.m.

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE

ROLL CALL:

A. **LIMITED PUBLIC COMMENT:** Members of the public may address the Commission regarding any subject of community interest during public comment periods by filling out a Public Comment Card and submitting it to the Secretary. Public comments are limited to three minutes per individual. Comments during other portions of the agenda may or may not be entertained at the moderator's discretion

B. **APPROVAL OF AGENDA:**

C. **INQUIRY AS TO CONFLICTS OF INTEREST:**

D. **CONSENT CALENDAR:** The purpose of the consent calendar is to expedite business by grouping non-controversial items together for one Commission motion without discussion. A request to remove any item for discussion later in the agenda from any member of the Commission, staff or public shall be granted.

1. **RECEIVE AND FILE**
- **a.** Township Board Minutes 09/06/2016
- **b.** Zoning Ordinance Subcommittee Notes 09/26/2016

2. **ACTION:**
- **a.** Approve Draft Planning Commission Minutes 09/12/16

E. **ITEMS REMOVED FROM THE CONSENT CALENDAR**

1. _____

2. _____

F. **CORRESPONDENCE:**

1.

G. **PUBLIC HEARINGS:**

H. **OLD BUSINESS:**

1. Short Term Rental Update – Winter

I. **NEW BUSINESS:**

1. Zoning District Map Considerations – ZO Committee
2. Housing Development Toolkit – Winter
3. Medical Marihauna Legislative Changes – Jocks
4. Town Center Presentation - Winter & Iacoangeli
5. Planning Commission Bylaws Review – Wentzloff

J. **PUBLIC COMMENT & OTHER PC BUSINESS**

1. Zoning Administrator Report – Shawn Winter
2. Planning Consultant Report – John Iacoangeli
3. Township Board Report – Doug White
4. Parks & Trails Committee Report – Marcie Timmins

ADJOURN:

If you are planning to attend and are physically challenged, requiring any special assistance, please notify Cathy Dye, Clerk, within 24 hours of the meeting at 938-1350.

APPROVED 11/14/16

ACME TOWNSHIP PLANNING COMMISSION MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
October 10th, 2016 7:00 p.m.

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE at 6:59pm

ROLL CALL:

Members present:	**D. Rosa, B. Balentine, D. White, T. Forgette (Secretary), S. Feringa (Vice-Chair), K. Wentzloff (Chair), M. Timmins**
Staff present:	**S. Winter, Zoning Administrator**
	J. Iacoangeli, Township Planner

A. LIMITED PUBLIC COMMENT: Opened at 7:01pm

Andy Andres, 1107 Barlow St. - Reminder to pc members of presentation by Joe Minicozzi (sponsored by TAAR) on property analysis looking at taxable value and different development patterns. J. Iacoangeli has seen his presentations and felt they were worthwhile for those interested in planning.
Closed at 7:04pm

B. APPROVAL OF AGENDA:

Motion by Timmins to approve the agenda as presented, support by White. Motion passed unanimously.

C. INQUIRY AS TO CONFLICTS OF INTEREST:

S. Feringa recused himself from item I.4, Towncenter presentation.

D. CONSENT CALENDAR:

1. RECEIVE AND FILE
- **a.** Township Board Minutes 09/06/2016
- **b.** Zoning Ordinance Subcommittee Notes 09/26/2016

2. ACTION:
- ~~**a.** Approve Draft Planning Commission Minutes 09/12/16 –~~ Item removed by Wentzloff

Motion by White to approve the consent calendar items without item 2a, support by Balentine. Motion passed unanimously.

E. ITEMS REMOVED FROM THE CONSENT CALENDAR

1. Approve Draft Planning Commission Minutes 9/12/16 **.** Wentzloff noted missing information on action items for item H.2; Short Term Rentals. Forgette noted to append first paragraph with the following: *Consensus to have Zoning Administrator go to the next board meeting, share counsel memo and have board begin the public input process per the PC's request.*

Motion by Timmins to approve the Draft Planning Commission Minutes 9/12/2016 with the change noted above to Item H2, support by Balentine. Motion passed unanimously.

F. CORRESPONDENCE: None

G. PUBLIC HEARINGS: None

H. OLD BUSINESS:

1. **Short Term Rental Update** – Winter brought to board the PC's request to share Counsel memo and to begin the public input process.Board is looking to schedule a public meeting with notices going out with the Winter Tax billing. Winter noted that he has not received the list of addresses in violation other than one which was mentioned by concerned citizens at last meeting. A notice of violation was sent to that property owner..

I. NEW BUSINESS:

1. **Zoning District Map Considerations** – ZO Committee members (Winter, Wentzloff, Timmins, and Iacoangeli) met on September 26 and started creating a rough draft of the table of contents that will outline the ordinance and focusing on making it more intuitive and user friendly. Timmins replaced Forgette on the committee due to time considerations. Committee discussions shifted to Zoning Districts to see which districts are setup to implement the Future Land Use Map. A review of current conditions have large SUP's not called out on the map which is misleading and does not reflect true development potential or future patterns. John Iacoangeli presented a working draft map to the PC and discussed the changes that would better reflect the zoning map and and how it flows to the future land use map. Working towards showing the large SUPs with the actual SUP numbers that would be shown on the zoning map and reflect what is currently on the ground and make it easier to reference the SUPs which really control the development. The committee also considered changes in land use classifications and Iacoangeli explained the proposed changes. Changes would include changing B4 to Light Industrial and removing B-3. The former Lautner Commons property would be zoned corridor flex and use at using form based code designations to match portions of the future land use map. A change of the ordinance order moving all of the definitions and administrative functions to the end of the document. This would make it more user friendly and changes the non-inviting feel of the document. Wentzloff excited about the new look and direction of the document and proposed map. She asked about removing some of the numbers associated with classifications. Feringa indicated these are reflective of building codes. White asked about some of the designations in the Agriculture district. The committee will continue work on the rewrite.
2. **Housing Development Toolkit** – Winter went over the items listed in the meeting packet memo to facilitate discussion on how it may relate to Acme Township. Winter shared a discussion with a developer on the lack of affordable housing for young families in the area and the struggles that places on school districts dependent upon the current per pupil funding structure. The price of land and infrastructure costs are the largest deterrent. He has received calls from local companies in the area that are struggling with employee turnover that is affecting their business due to the lack of affordable housing nearby. Some suggestions in the document may work for Acme Township. Balentine referenced a two year study on lack. Rosa mentioned the role government bureaucracy such as excessive code requirements and inspections raising the price of housing. Winter added that the planning commission has addressed some challenges by reducing parking requirements and speeding up the permitting process, but perhaps more could be done to improve the process beyond traditional zoning as part of the Zoning Ordinance rewrite. Wentzloff indicated in some cases developers are seemingly unwilling to build such as Acme Village. Wentzloff indicating housing inventory is low, and people with money earned elsewhere buying second homes contributing to increased pricing. Huge problem in this area. Winter thinks we need to keep coming up with ideas. Believes the cumbersome zoning ordinance of the past has contributed to the problems. The cost of property and infrastructure here is high and the biggest deterrent yet other areas of the county are seeing development activity such as East Bay and Garfield. Iacoangeli wonders why Acme Township has two large developments (Lochenheath and VGT) with infrastructure setup yet are having no activity. One would think we would be seeing some movement in these developments. Wentzloff believes VGT is not actively marketing or soliciting

single/multiple family housing component. Lochenheath is a golfing community and property pricing is very high and may be due to the bylaws requiring large housing sizes. Iacoangeli pointed out these large SUPs control a major portion of the township and nothing is happening. Feringa indicated a large amount of the remaining areas of the resort are for high end condos and those are just not selling. It was suggested that the largest SUP owners really don't need to move property. And that is out of township control.

3. **Medical Marihauna Legislative Changes** – Winter provided a summary of Counsel's memo regarding recent legislative changes. The law expands to 5 categories that will require licensing. Township will need to consider adopting a licensing ordinance soon to comply with provisions under the new acts. Winter has received a few inquiries but indicated local regulations can still apply. As part of the law, a provisioning center would be like a retail establishment where any card member may purchase. Timmins asked about how this fit in with current caregivers. Wentzloff asked PC members to think about uses to be allowed and Winter included to think about questions for counsel. This item will be discussed further next month under old business.

4. **Town Center Presentation** - To premise, Winter reminded PC of the options given to Chase regarding their application and outlot development in VGT and additionally the updated concept plan for VGT that the PC has requested for the past two years. Winter and Iacoangeli thought this would be a good time to review the elements of a successful Town Center design with the PC. Iacoangeli presented the Urban Land Institute 10 Principles for Developing a Town Center. The Principles are best practices to develop a viable Town Center and they are 1) Create an enduring and memorable public realm; 2) Respect Market Realities; 3) Share the risk, share the reward; 4) Plan for development and financial complexity 5) Integrate multiple uses; 6) Balance flexibility with long term vision; 7) Capture benefits that density offers; 8) Define a place and center of activity; 9) Invest for sustainability; 10) Commitment to intensive on site management and programming. With respect to this, Iacoangeli discussed with PC how these could apply to VGT, He indicated that elements are there, however, there must be flexibility between the developer and the township as the conceptual plan of 2002 may not necessarily reflect current market conditions. He added the premise was for VGT to be built as a Town Center, with Acme's version of "downtown" in mind. The Town Center plan contains a variety of mixed uses such as retail, offices mixed use development single and multiple family, parks, recreation and institutional uses. For example of public/private partnership he mentioned the townships recent discussions on a new town hall and/or fire station. We needn't look around for property, VGT fits that bill and would be part of the public/private partnership. A variety of different financing sources for this project have been used and should continue. Density drives economic development in these and it should be pedestrian focused. The last thing it should do is morph back into a series of strip malls. The beauty of a Town Center is the mixed used that is able to withstand market changes and fluctuations. Winter provided an example to illustrate how these principles may look from West Broad Village in Henrico,VA which is of a similar look and size of VGT demonstrates the elements of Town Center design. He provided the evolution of the Town Center from agriculture field to a fully built out Town Center over the course of 10 years even through the course of a recession. Winter explained the key elements, of mixed used, pedestrian friendly, main street look and feel, Buildings brought to front of street with shared parking on the side, sidewalks wrap around buildings and are well connected. It utilizes high density townhouse design to encourage neighborhood interactions.Well designed public spaces are provided for gathering uses. Key element is buildings frame the spaces. Commercial isn't built with one specific tenant in mind. This provides flexibility. Dynamic public spaces are another component. Winter concluded many of these elements could be incorporated in VGT and described how this may occur. He showed how parking decks could be used in a discrete but connecting manner that allows developers to put the land in a more productive manner and showed an example of how mixed use design zoning can make a property more economically viable and showed shared parking examples with a strong pedestrian component. In closing, he indicated that he is not trying to push an agenda, but to

demonstrate how strong design principles make for a more economically viable development. Discussion among PC members concluded presentation.

5. **Planning Commission Bylaws Review** – Wentzloff asked for this to be postponed until next month.

J. PUBLIC COMMENT & OTHER PC BUSINESS

1. Zoning Administrator Report – Shawn Winter summarized ZA report, indicating number of permits were down. Gokey project is moving forward but will need to extend the land use permit.
2. Planning Consultant Report – John Iacoangeli had nothing to report
3. Township Board Report – Doug White indicated new boat ramp at Saylor is now open.
4. Parks & Trails Committee Report – Marcie Timmins shared that the Bayside Park project has started and there will be Blue Star Memorial dedication on October 22nd. Park is closed while construction takes place.

Public Comment opened at 9:04pm
Jim Heffner, 4050 Bayberry Ln. - Follow up question on the Town Center presentation and status of Chase application. Asked about fire station and town hall should consider building at VGT and set the standard.

Andy Andres - 1107 Barlow St. - Believes new Township Hall needs to be in VGT development. Perhaps PC could contact the Board about getting incentive to do so. An olive branch to the table with developer to stimulate discussion for a revised site plan.

ADJOURN:
Motion to adjourn by Timmins, support by Balentine. Motion passed unanimously. Meeting adjourned at 9:07pm.

MEMORANDUM
Planning and Zoning

6042 Acme Road | Williamsburg, MI | 49690
Phone: (231) 938-1350 **Fax**: (231) 938-1510 **Web:** www.acmetownship.org

To: Acme Township Planning Commission

From: Shawn Winter, Zoning Administrator

CC: Jeff Jocks, Counsel; John Iacoangeli, Planning Consultant

Date: October 4, 2016

Re: October 10, 2016 Planning Commission Packet Summary

A. LIMITED PUBLIC COMMENT

1. **Open:** **Close:**

B. APPROVAL OF AGENDA

1. **Motion by:** **Support:**

C. INQUIRY AS TO CONFLICTS OF INTEREST

1. **Name:** **Item:**
2. **Name:** **Item:**

D. CONSENT CALENDAR:

1. **RECEIVE AND FILE:**
   - **a.** Township Board Minutes 09/06/16
   - **b.** Zoning Ordinance Subcommittee Notes 09/26/26

2. **ACTION:**
   - **a.** Approve Draft Planning Commission Minutes 09/12/16

E. ITEMS TO BE REMOVED FROM THE CONSENT CALENDAR

1. _____
2. _____

F. CORRESPONDENCE:

1. **None**

G. PUBLIC HEARINGS:

1. **None**

H. OLD BUSINESS:

1. **Short-Term Rental Update**
   - The Board was presented with Counsel's memo on short-term rentals at their October 4, 2016 meeting, along with the Planning Commission's recommendation to begin the public input process sooner than later.
   - The Board has decided to move forward with the public forum
   - The mechanics of the public forum are still being worked out. We will hold it at Williamsburg Dinner Theatre. Still trying to determine if a separate mailing should be sent out to notice the public, wait until December to mail it with the tax bills, or just

notice the event in the local papers/media
- This will be a joint meeting between the Board and Planning Commission

I. NEW BUSINESS:

1. Zoning District Map Considerations

- The Zoning Ordinance subcommittee had their first meeting on Monday, September 26, 2016.
- The subcommittee created a rough draft of the Table of Contents that will outline the layout of the Ordinance, focusing on providing a more user-friendly, intuitive document
- Discussion shifted to Zoning Districts and the map to determine which districts are actually set up to implement the Future Land Use Map.
- Furthermore, large SUP's in the Township (Grand Traverse Resort & Spa, Grand Traverse Town Center, Acme Village, LochenHeath) are not called out on the map, which may be misleading and not reflect true development potential/future patterns.
- John Iacoangeli will be presenting a draft map with the changes mentioned in the 09/26/16 meeting notes for feedback and advisement from the PC

2. Housing Development Toolkit

- Provided in your packet is the White House's *Housing Development Toolkit*
- This is not meant to be a partisan endorsement of an administration, but rather an informative document that looks at how zoning ordinances can negatively affect housing in a community, which in turn can negatively affect other systems (economic development, transportation, environmental quality, etc.)
- I can't remember a time when a Presidential administration addressed housing at the national level, which would to me acknowledge the housing problems we are experiencing in our region are not unique to this location
- As we work to rewrite our Zoning Ordinance I feel it is worth taking a long look at how we allow and permit housing in the Township. I feel there is room for improvement, and the business as usual approach may not be sustainable into the future
- Acme Township could develop a zoning ordinance that addresses the challenges we, and the region, face when it comes to housing by improving upon:
    - Review and permitting processes
    - By-right
    - Innovation and flexibility
    - Matching housing development to local needs
- This is not to say that housing development in the Township should become a free-for-all, but rather improve upon the rigid standards of traditional zoning that have contributed to our housing issues
- As the Township moves forward with the short-term rental issue, it will be important to evaluate how they positively/negatively affect our housing struggles. Furthermore, the short-term rental conversation should be expanded to include other options: long-term rentals, Accessory Dwelling Units, guest houses, room-sharing, etc.

3. Medical Marihuana Legislative Changes

- The state recently adopted new legislation that effects the Michigan Medical Marihuana Act. Most notably a license requirement
- Counsel's memo highlights the changes and what the Township may need to do moving forward.
- The bill now expands the number of different activities associated with medical marihuana to five. The first goal will be to decide what activities the Township wants to allow.
- The bill also requires a local license (in addition to a state license). This will require a police power ordinance by the Board.

- The House Bills have been enclosed for reference.

4. Town Center Presentation

- The Chase Bank site plan revealed two options moving forward: revise the site plan, or amend the SUP to allow outlot style developments
- In light of possible changes to the SUP, and the understanding that markets have changed since the 2004 site plan was created, John Iacoangeli and I will present the elements of successful town centers around the state and country, and provide examples of the design elements have helped foster their success
- The Township's influence over the development is limited by the fact the whole property is privately held. The ideal scenario would be to sit down with the developer and discuss their needs, the standards from the original SUP approval, and the goals and objectives spelled out in the Master Plan and Future Land Use Map.
- Through communication and collaboration a successful updated to the conceptual plan and necessary SUP amendments could be ironed out.

5. Planning Commission Bylaw Review

- Chair Wentzloff asked to have the bylaws placed on this month's agenda
- Please read through the enclosed bylaws to determine if there are any errors, irrelevant provisions, or needs for improvement.

J. PUBLIC COMMENT & OTHER PC BUSINESS:

1. Public Comment:

- **Open:** **Close:**

2. Zoning Administrator Report: Shawn Winter

- **Permits**
  - Land Use Permits – 1
    - 2016-37 Demolition
  - Sign Permits – 2
    - 2016-18 Temporary (Tractor Supply)
    - 2016-19 Temporary (Bantry Bay Development, Dentist)
- **Zoning Ordinance Amendment 037 – Article XIX: Plan Development** approved by the Board at their 10/04/16 meeting
- **Zoning Ordinance Amendment 042 – §6.6.4 Land Use Table in the US-31/M-72 Business District** approved by the Board at their 10/04/16 meeting

3. Planning Consultant Report: John Iacoangeli

4. Township Board Report: Doug White

5. Parks & Trails Committee Report: Marcie Timmins

ACME TOWNSHIP BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, September 6, 2016, 7:00 p.m.

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE at 7:00 p.m.

Members present: J. Aukerman, C. Dye, A. Jenema, G.LaPointe, P. Scott, D.White, J. Zollinger
Members excused: None
Staff present: N. Edwardson, Recording Secretary

A. LIMITED PUBLIC COMMENT:
Zollinger stated Pete Correia, Peninsula Township Supervisor, passed away September 5, 2016, after a struggle with cancer.

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B. APPROVAL OF AGENDA:
Zollinger asked to add two items to New Business #6 Discussion on 401 plan for the Township and #7 Bayside Park.

Motion by White, seconded by Aukerman to approve the agenda with the addition of two items under New Business #6 Discussion on 401 plan for the Township and #7 Bayside Park Motion carried by unanimous vote.

C. APPROVAL OF BOARD MINUTES 08/09/16

Motion byLaPointe, seconded by Dye to approve the 08/09/16 Board minutes as presented. Motion carried by unanimous vote.

D. INQUIRY AS TO CONFLICTS OF INTEREST: None

E. REPORTS:

1. **Clerk – Dye**
   Dye commented that our annual audit was recently completed. A report will be given at the December Board meeting.
2. **Parks –** Henkel monthly update Received and filed, Progress report #1 to Great Lakes Fishery Trust provided by Trustee, Aukerman. Received and filed.
   Zollinger reviewed the maintenance recommendations to get through the Winter. Henkle is planning on retiring on September 28, 2016. Some of the recommendations are to have TNT our present contractor who does mowing at Bayside Park to mow both cemeteries this fall, do fall cleanup in both cemeteries and also do the snow removal for 2016/17 snow season. Metro fire will pick up the snow removal at the station and all water points. LaMott, our summer parks help will work additional hours getting the township ready for winter. We thank Tom Henkle for all the years of service to Acme Township and Parks maintenance. We wish him well in his retirement.

   Motion by Jenema, seconded by LaPointe to accept the maintenance recommendations as presented. Motion carried by unanimous vote.

3. **Legal Counsel – Received and filed**
4. **Sherriff** – Zollinger introduced the new community police officer, Brian Potter.
5. **County - Received and filed**
6. **Roads – Marc McKeller – No report**

F. SPECIAL PRESENTATIONS/DISCUSSIONS: None

G. CONSENT CALENDAR: The purpose is to expedite business by grouping non-controversial items together one Board motion (roll call vote) without discussion. A request to remove any item for discussion later in the a agenda from any member of the Board, staff or public shall be granted.

1. RECEIVE AND FILE:
- **a. Treasurer's Report**
- **b. Clerk's Revenue/Expenditure Report and Balance Sheet**
  Draft unapproved meeting minutes
  1. **Planning Commission 08/08/16**
  2. **Parks and Trail 08/12/16**

2. APPROVAL:
- **a. Accounts Payable Prepaid of $3,044.77 and Current to be approved of $97,324.17 (Recommend approval: Cathy Dye, Clerk)**

H. ITEMS REMOVED FROM THE CONSENT CALENDAR:
LaPointe requested the Treasurer's report to be removed.

Motion by Jenema, seconded by White to approve the Consent Calendar with the removal of the Treasurer's report. Motion carried by unanimous roll call vote.

LaPointe asked about the $20,401/PA 48 Twp Imp (SAD). Jenema stated that a previous Board had set the monies aside for Special Assessment District (SAD). This fund was used in the Holiday Hills SAD. It will no longer be listed on the Treasurer's Addendum report.

Motion by LaPointe, seconded by Zollinger to strike this information from the Treasurer's report. Motion carried by unanimous vote.

Motion by LaPointe, seconded by White to approve the Treasurer's report with the removal of the $20,401 SAD. Motion carried by unanimous roll call vote.

I. CORRESPONDENCE: None

J. PUBLIC HEARING: Metro Fire 2017 Budget and Resolution
Robin Ehardt was present from Metro Fire to address any questions or issues on the Metro Fire budget.

Public Comment opened at 7:55 pm/Closed at 7:56 pm with no comments being made.

Board discussion followed.

Motion by Jenema, seconded by Aukerman to approve Resolution R-2016-34 Establishing Emergency Services Special Assessment Levy for 2016 as presented with .15 tenths of mills paid from General Fund and due in May of 2017 with 2.20 mills leveled on Tax base. Motion carried by unanimous roll call vote.

K. NEW BUSINESS:

1. DPW 2017 Acme budget discussion

The DPW, upon recommendation of its staff and Finance committee submitted the proposal for the 2017 Budget for the administration, operation and maintenance of the Acme Township Sewer System. Discussion followed.

Motion by LaPointe, seconded by White to approve the 2017 Sewer Budget as presented. Motion carried by unanimous roll call vote.

2. Resolution R-2016- Establishing the Monarch Butterfly as the State insect

Motion by LaPointe, seconded by Jenema to approve Resolution R-2016-35 establishing the Monarch Butterfly as the State insect. Motion carried by unanimous vote.

3. Minor change to a plat – Zollinger

Zollinger stated that a property owner will be asking the Board to approve a minor change to a plat. There is a portion of Lot 5 of Northpointe subdivision that would be added to Lot 9 of Weathering Heights subdivision and a portion of Lot 9 of Weathering Heights subdivision that would be added to Lot 5 of Northpointe. A survey was provided to the Board.

Motion by Scott, seconded by White, to approve the adjustment of the lot lines in the Northpointe and Weathering Heights subdivisions as presented. Motion carried by unanimous vote.

4. Bayside Park Bunker hill parking recommendation from Parks & Trails committee

The committee is recommending that in 2017 and forward only car parking will be allowed. No trailers.

Motion by LaPointe, seconded by White to provide the provisions to inforce no trailer parking at the Bunker Hill boat launch. Motion carried by unanimous vote.

5. Continuing discussion from August Board meeting regarding township cemeteries

Dye stated that the Township has the capacity to expand our cemeteries.

Motion by Scott, seconded by LaPointe, to amend the Township Cemetery Ordinance to allow non-residents to purchase plots for $600.00 at Acme or Yuba cemeteries. Motion carried by unanimous vote.

6. Resolution for implement of Acme retirement benefit plan to Burham & Flower/ Nationwide financial

Dye stated in a memo that our current Third Party administrator is Lovasco. It has been a challenge to work with them regarding work flow and plan management. Zollinger and Dye have met with three firms. It is recommended to pursue Burnham & Flower.

Motion by Scott, seconded by Jenema to approve Resolution R-2016-36 for implement of Acme retirement benefit plan to Nationwide Financial serviced by Burham & Flower. Motion carried by unanimous roll call vote.

7. Bayside Park cost update for Fall 2016 - Jenema

Jenema provided a Bayside Park cost update for 2016. Discussion followed. It was approved to do option #6 with Supervisor, Zollinger, being able to spend up to $64,920.00.

Motion by Jenema, seconded by Dye, to approve Option #6 in the proposed Bayside Park update. Motion carried by unanimous roll call vote.

L. OLD BUSINESS:

1. MDOT response to a left turn on US-31 and M-72

In a memo from MDOT on a recently completed left turn phasing evaluation for the intersection of US-31 and M-72 as requested by the Acme Township Board earlier this year the results of the evaluation indicate the criteria for left turn phasing is not met. At this time MDOT will be changing some of the pavement markings at the intersection in hopes of enhancing the left turn movement.

2. Update of grant status, 2%, DNR Trust fund application 2016

Zollinger commented that the Township did not receive any funding in the June 2016 2% Tribal cycle. Also we are still waiting for reimbursement from the DNR Waterways grant.

3. **Resolution on paving Yuba road/Acme Twp portion**

   Motion by LaPointe, seconded by Aukerman to entered into the agreement with Road Commission to fund construction cost of paing Yuba Road. Motion carried by unanimously roll call vote.

   Motion by Scott, seconded by White to approve Resolution R-2016-37 moving funds from PA48 Metro Road funds 101 to Sayler Park Boat launch 401. Motion carried by unanimous roll call vote,

4. **Resolution on monies being loan to 401 capital fund until DNR waterways grants rebates are received in Township.**

   Motion by Dye, seconded by Jenema to approve Resolution R-2016-38 providing a loan from 101 Fund to 401 Fund to help cash flow until reimbursements are received from the Waterways grants. Motion carried by unanimous roll call vote.

PUBLIC COMMENT & OTHER BUSINESS THAT MAY COME BEFORE THE BOARD:
Trustee, Aukerman, began a discussion on having a "Honor System" at the new Sayler Park Boat launch. A honesty box would be posted for a possible $5.00 donation. Discussion followed. Aukerman will do some more research and come back to the Board at a later date.

ADJOURN AT 9:45 pm

Meeting Notes

Attendees: Karly Wentzloff, Marcie Timmins, Shawn Winter and John Iacoangeli

Discussion

1. Discussed the outline for the new zoning ordinance. The goal is to make it user friendly and easy to find information and regulations.
    a. Outline focuses zoning district, regulated uses, and standards toward the beginning of the ZO.
    b. Administrative, appeals, and other statutory provisions in the back of the ZO.
    c. Definitions will be last.
2. Discussion on Zoning Map and Future Land Use Map (FLUM)
    a. Due to several large SUP's (VGT and the Resort) the ZO map appears to contain more residential than really programmed.
    b. Looked at using the FBC designations to mirror portions of the FLUM.
    c. Large SUP's would be noted on the ZO Map with approval dates.
    d. Discussed changing B-4 to LI (Light Industrial/Warehousing) and removing the B-3 altogether. The former Lautner Commons property (form Meijer site) would be zoned to CF (Corridor Flex).
3. Actions
    a. Potential ZO Map – Shawn and John to work up a draft for the October meeting.

DRAFT UNAPPROVED

ACME TOWNSHIP PLANNING COMMISSION MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
September 12th, 2016 7:00 p.m.

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE at 7:01pm

Members present: D. Rosa, D. White, T. Forgette, S. Feringa, K. Wentzloff, M. Timmons
Members excused: J. Jessup
Staff present: S. Winter, Zoning Administrator
J. Jocks, Legal Counsel

A. LIMITED PUBLIC COMMENT: Opened at 7:01pm

Pat Buck, 7369 Deepwater Point Road, agreed with J. Jocks opinion (review memo attached to agenda) that short term rentals are not an allowed use in residential areas.

Joel Safronoff, 7206 Peaceful Valley Road,spoke to short term rentals and since last meeting encountered four instances and thinks township should send letter to all residents indicating they are not an allowed use.

Wally Olson, 7373 Deepwater Point Road, spoke to short term rentals. Relatively ok until this year but now renters have taken over beaches and spreading out to other private property and getting out of hand. Never know who your next "neighbor" will be

John Martin, 908 S. Belmont Ave, Watseka, IL, spoke to advocate short term rentals. Believes residential and short-term rental use can co-exist but owners of rentals need to take pride and be accountable for issues. Indicated a conditional use permit may work.

Mary B. "Bonnie" Smith, 7280 Deepwater Point Road, spoke to short term rentals and asked if this would be a zoning change in the residential area. Residential areas are not zoned for short term rentals. Feels renters do not follow regulations in place and make it feel like a hotel area. Concerned about safety.

Beth Young, 7380 Deepwater Point Road, spoke to short rentals and concern for safety, traffic and the overall disrespect short term renters showing for local laws and ordinances. Built their home in this area many years ago without concern for any of that.

Irene Stuart, 7402 Deepwater Point Road, spoke to short term rentals and the lack of responsibility from absentee landlords. Moved here from downtown Traverse City to get away from the issues of renters. Homeowners do not want to be watchdogs. Worry about short term rentals affecting home pricing. This area is residential, not commercial

Public comment closed at 7:19pm

B. APPROVAL OF AGENDA: Motion by Rosa to approve agenda, support by Timmis. Motion carried unanimously.

C. INQUIRY AS TO CONFLICTS OF INTEREST: S. Feringa recused himself from New Business Item I.1

Wentzloff addressed PC regarding questions asked last meeting of a possible conflict of interest due to her professional occupation as a Realtor as it applies to Short Term rental discussions. She did not feel there was a conflict of interest. PC and counsel agreed

D. CONSENT CALENDAR:

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1. RECEIVE AND FILE

a. Township Board Minutes 08/09/2016

2. ACTION:

a. Approve Draft Planning Commission Minutes 08/08/16

Motion by White to approve Draft Planning Commission Minutes 08/08/16, support by Forgette. Motion carried unanimously.

E. ITEMS REMOVED FROM THE CONSENT CALENDAR

1. None

2. _____

F. CORRESPONDENCE:

1. East Bay Township – Master Plan Amendment - Winter provided summary of correspondence from East Bay Township regarding their Master Plan Amendment (attached to agenda)

2. Short-Term Rentals – Tim Smith. Winter explained letter from T. Smith favoring short term rentals (attached to agenda)

G. PUBLIC HEARINGS: None

H. OLD BUSINESS:

1. Zoning Ordinance Amendment 037 – Planned Development

Winter summarized amendment changes since last meeting as it was tabled. Based on comment by County Planning suggesting the 10% wetland or less requirement for a density transfer may prevent sensitive lands from being protected, Jocks provided alternative language to the item under 19.6(c)(1). PC discussed whether attached map was necessary or it wasn't referenced properly in item 19.6(c)(5). Recommended change in map reference from Township Zoning Map to "Dwelling Unit Transfer Map".

Motion by Timmins to incorporate the changes to §19.6(c)(1) as presented with the change of the map reference as discussed above and to recommend approval of Zoning Ordinance Amendment 037 Planned Development to the Township Board. Support by Rosa. Motion passed unanimously

2. Short Term Rentals

Jocks provided summary of memo regarding his review on whether short term rentals are allowed in R-1, R-2, and R-3 Districts for Acme Township. After review of the zoning ordinance and related law, it was his opinion that short term rentals are not an allowed use in R-1, R-2 and R-3 Districts for Acme Township. (complete memo attached to agenda). Discussion among PC occurred.

Winter provided PC with his recommendation moving forward.

3. Zoning Ordinance Review Subcommittee

Winter and Wentzloff went over J. Iacoangeli memo to form sub committees to help the process of zoning ordinance

review. These have proven helpful in the past based on the amount of work that needs to be accomplished. The committee would consist of three members of the PC, zoning administrator, and the township planner. Appointments to committees to occur after PC elections.

I. NEW BUSINESS:

1. Site Plan Review – SPR 2016-02 Chase Bank at Grand Traverse Town Center

Tim Meseck, of the Architects Partnership on behalf of Chase Bank, provided the PC with an overview and summary of the proposed Chase Bank at GTCC. The proposal is to develop a 1.5 acre outlot providing a new 3000 sq ft. full service branch bank that meets their core requirement needs. Designed as a single tenant, single use facility, they feel the proposed design fulfills the need for both the current scenario of primarily vehicular traffic and the future mixed use residential areas of the development. They felt the proposal is consistent with the master plan and will compliment all future uses. They understand the original approvals of the SUP and how that might affect Chase's submittal,

Winter said the Beckert & Raeder review and subsequently his concurring memo is not related to the use of the site as a bank, The issues with the site plan as submitted is the application does not meet the requirements of the Special Use Permit that governs development at the GTTC. The submitted design is inconsistent with the requirements that call for a mixed-use pedestrian oriented development. Inconsistencies include 1) not a mixed use building, 2) lack of pedestrian friendly access with more 70 feet between road and the entrance, 3) no parking along the street, 4) no sidewalk isolation from road and quantity of curb cuts. The planning commission recognizes that the market has changed since 2004 when it was originally approved and supports exploring an amendment to the conceptual plan to reflect those changes. The PC has asked the developer on two occasions for this update with no response. Until an amendment is approved, site plan reviews must abide by the standards, procedures and supporting documents approved through Special Use Permit 2004-11P. So either the proposed site plan needs to meet the requirements of the SUP, or an amendment must be made to the current SUP to better reflect current market conditions.

Discussions by PC members were in general agreement with Beckert & Raeder and the Zoning Administrator recommendations as they are bound by the conditions of the SUP. Specific items mentioned were changes to parking making it more mixed use friendly, orientation of building to make it more pedestrian friendly, eliminating some curb cuts and provide a more "downtown feel". PC members provided applicant with suggested changes to site plan as presented to be more inline with SUP requirements. Chase representatives recognized the PC requirement to abide by the SUP and asked how they can bridge the gap between the existing condition and the GTTC SUP and proceed further. Winter indicated revising site plan based on comments and suggestions to meet the SUP requirements, or for them to go back to developer to look at a possible amendment to the SUP to address changes in the market. PC and applicant agreed to continue the conversations and address components outlined in the Beckert & Raeder and the Zoning Administrator memos as well as work with developer.

Motion by Timmins to table Site Plan Review (SPR) 2016-02 Chase Bank at the Grand Traverse Town Center until site plan is revised to meet the recommendations of staff to meet the current SUP requirements, or there is a revision of the existing SUP by GTTC. Support by Rosa. Motion passed unanimously.

2. Planning Commission Elections

Planning commission elections were held and positions accepted for the next year through roll call vote as follows:

Planning Commission Chair:	Karly Wentzloff
Planning Commission Vice-Chair:	Steve Feringa
Planning Commission Secretary:	Trae Forgette

At this time Wentzloff appointed the following PC members to upcoming committees

Site Plan Review Includes PC Chair, Zoning Administrator, and Planner. and a PC member designee -

Designee: S. Feringa; Alternate - M. Timmins
Zoning Ordinance Rewrite - D. Rosa; T. Forgette, K. Wentzloff

Jocks reviewed Acme Township Planning Commission Bylaws as adopted and amended. Suggestion was made to change wording in Section 4.0 based on recent changes to the number of PC members from 5 to "majority". Suggested sentence to say, " These rules may be amended by a majority vote of commission members"

Motion by Timmins to change wording in the Commission Bylaws in Section 4.0 as referenced above, support by White. Motion passed unanimously.

J. PUBLIC COMMENT & OTHER PC BUSINESS

Opened at 9:20pm

Pat Partridge, 3907 Bay Valley Dr, spoke to short term rentals and pets. As a veterinarian, she would recommend not allowing large breed animals for safety concerns.

Deb Safronoff, 7206 Peaceful Valley Road spoke to short term rentals. Questioned why a public forum on short term rentals was needed when the ordinance indicates they are not allowed in residential district. Feringa indicated that forum would allow PC to review other zoning areas and short term rental use (ie Agriculture district).

Pat Buck, 7369 Deepwater Point Road, asked if Township Board is going to start enforcement of short term rentals in residential areas. Winter provided a summary of the enforcement process.

John Martin, 908 S. Belmont Avenue, Watseka, IL, spoke to short term rentals. Sees that a few bad apples ruining it for everyone.

Joel Safronoff, 7206 Peaceful Valley Road, asked what was needed for zoning administrator to start enforcement. Winter indicated that he would need for the properties utilizing short term rentals to be identified.

Closed at 9:31pm.

Wentzloff informed PC members that J. Jessup has resigned from the PC. Upcoming citizen planner classes were discussed.

1. Zoning Administrator Report – Shawn Winter provided PC with brief summary (attached to agenda)
2. Planning Consultant Report – John Iacoangeli - None
3. Township Board Report – Doug White - Yuba boat ramp coming along nicely. Road leading to it may need repairs.
4. Parks & Trails Committee Report – Marcie Timmins

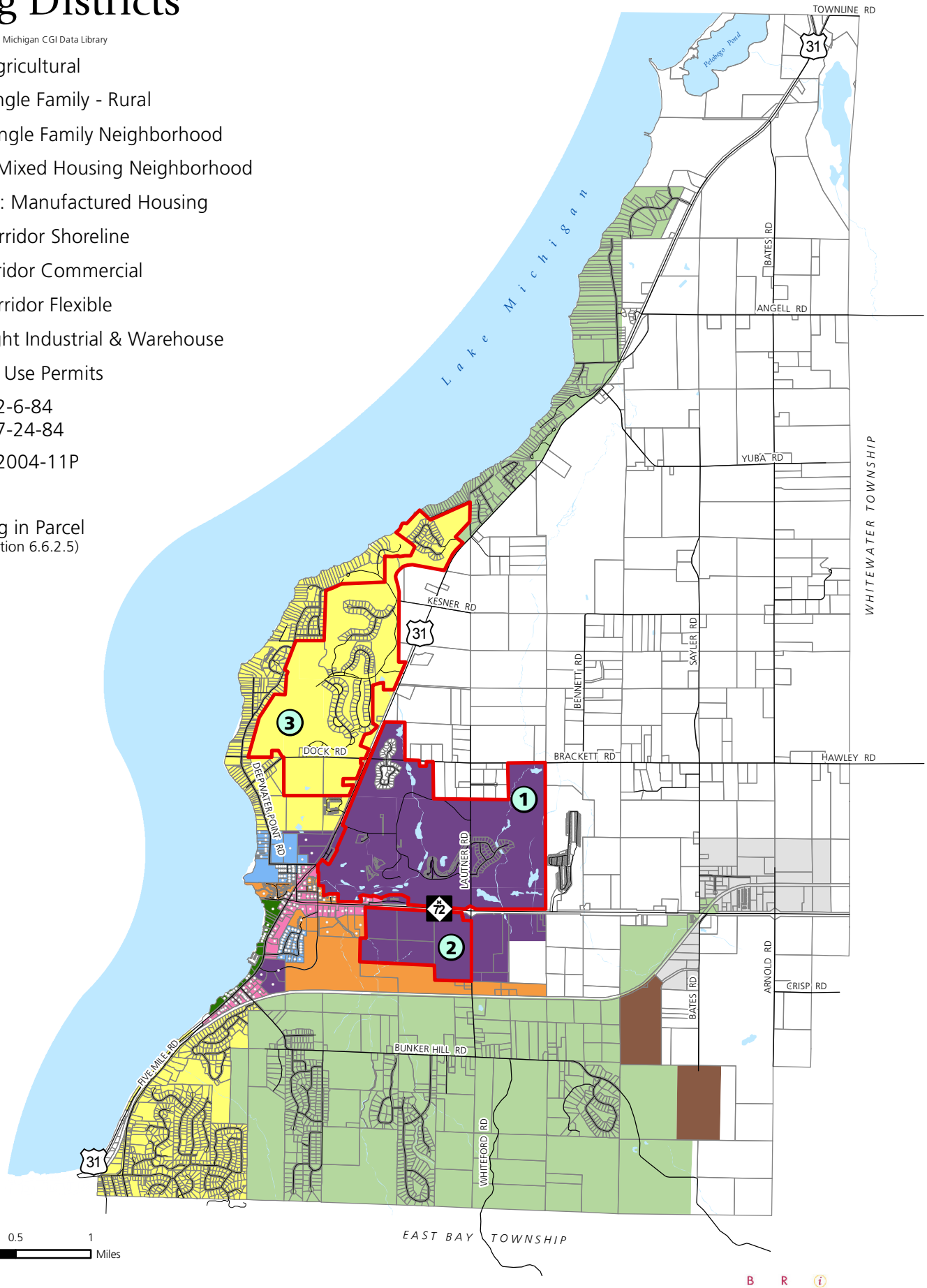
ADJOURN: Motion to adjourn by Timmons, support by Feringa. Motion passed unanimously. Meeting adjourned at 9:41pm.

ACME TOWNSHIP

Zoning Districts

Data Source: Acme Township, Michigan CGI Data Library

- A-1: Agricultural
- R-1: Single Family - Rural
- SFN: Single Family Neighborhood
- MHN: Mixed Housing Neighborhood
- R-1MH: Manufactured Housing
- CS: Corridor Shoreline
- C: Corridor Commercial
- CF: Corridor Flexible
- L-1: Light Industrial & Warehouse
- Special Use Permits
- (1) SUP # 2-6-84
  SUP # 7-24-84
- (2) SUP # 2004-11P
- (3) SUP #
- Building in Parcel
  (refer Section 6.6.2.5)



Beckett&Raeder

ARTICLE 4
ZONING DISTRICTS AND ZONING MAP

4.1 Relationship of Zoning Ordinance to Community Master Plan

The zoning ordinance is enacted to regulate the use of private and public property and structures with the purpose of protecting public health, safety and welfare. Standards and regulations within the ordinance regulate the amount, type and use of a building allowable on a piece of land. The zoning ordinance is a tool used by the community to effectuate the recommendations of the Acme Township Community Master Plan, which is a guide for the long-term physical development of the Township.

4.2 Districts Established

The Township is hereby divided into the following districts (see Zoning Map), which shall be known as:

A-1:	Agricultural
R-1:	Single Family - Rural
SFN:	Single Family Neighborhood
MHN:	Mixed Housing Neighborhood
R-1MH:	Manufactured Home Residential
CS:	Corridor – Shoreline
C:	Corridor – Commercial
CF:	Corridor – Flex
L-1:	Material Processing and Warehousing

4.3 Agricultural (A-1)

This District is intended to preserve, enhance, and stabilize areas within the Township which are presently used predominantly for farming purposes or areas which, because of their soil, drainage, or natural flora characteristics, should be preserved for low intensity land uses. It is the further purpose of this District to promote the protection of the existing natural environment, and to preserve the essential characteristics and economical value of these areas as agricultural lands. Agricultural District areas may be subject to noise, chemical spray and other hazards which might normally disrupt a residential environment. It is explicitly the purpose of this zone, therefore, to preserve a suitable working environment for farming operations without conflict with residential and other uses.

4.4 Single Family - Rural (R-1)

It is the purpose of this District to encourage the development of residential properties of a semi-rural character within the following general areas of the Township: 1) where public water and sewer facilities are not now available and likely to remain without such services indefinitely, and 2) where natural resource and environmental characteristics, such as hillsides, scenic areas, wetlands, and shore lands tend to make more intensive types of urbanized development destructive to environmental values. The intent is to provide for an environment of predominantly low density, one-family detached dwellings that will harmonize with the natural resource capabilities of the District.

4.5 Single Family Neighborhood (SFN)

Recognizing existing residential neighborhoods which are based on suburban site and building design standards. These neighborhoods are not quite rural and typically are found on the fringe of most urban areas. Lot size can range up to one acre is size and density can vary from ½ unit per acre to 2-3 units per acre served, or anticipated to be served, with either or both public water and sewer.

4.6 Mixed Housing Neighborhood (MHN)

This neighborhood will include a variety of housing types including single family residential as defined in the SFN, cluster residential and open space subdivisions, small lot residential, duplex, fourplex, courtyard units and apartments of various types and sizes. All of these residential developments will be designed as walkable neighborhoods with sidewalks and on-street parking. Densities would range from 5 to 12 dwelling units per acre. This zone can accommodate buildings described in the SFN regulating zone.

4.7 Manufactured Home Residential (R-1MH)

The intent and purpose of this District to provide for the development of manufactured homes

4.8 Corridor - Shoreline (CS)

To provide for the continuation of existing businesses and residences along the west side of the US-31 as this area evolves into a series of interconnected pub-lic and private water-related recreation uses.

4.9 Corridor - Commercial (C)

To provide for a traditional commercial district that promotes mixed use, walkability and transit options, and takes advantage of its location to East Bay.

4.10 Corridor – Flex (CF)

To provide for a flexible mixture of retail, office, commercial, residential and institutional uses within walkable and connected neighborhoods. The objective is to create an environment where residents can live, work and shop for day-to-day amenities in the same area.

4.11 Material Processing and Warehousing (L-1)

This district is intended to accommodate those industrial uses, storage, and related activities that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or any other potentially harmful or nuisance characteristics. It is designed to accommodate wholesale, warehouse, and industrial activities whose operational and physical characteristics do not detrimentally affect any of the surrounding district. The B-4 Districts are established to permit the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material. It is also intended to prohibit residential uses and intensive retail enterprises as being incompatible with the primary uses permitted.

4.12 Compliance with District Regulations

Compliance with District regulations shall be required as follows:

A. No building or structure shall be erected, converted, enlarged, reconstructed, relocated or structurally altered, nor shall any building or land be used, except for a

purpose or use permitted in the district in which the building or land is located, nor in excess of the height and bulk limits established for such district.

B. No building or structure intended for a dwelling use shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the floor area regulations of the district in which it is located.

C. No building or structure shall be erected, converted, enlarged, reconstructed, relocated or structurally altered except in conformity with the yard and lot area regulations and the off-street parking and loading regulations of the district in which such building is located.

D. The minimum yards, parking space and other open spaces, including lot area per family, required by this Zoning Ordinance for any building hereafter erected or structurally altered, shall not be encroached upon or considered open space or lot area requirement for any other building, nor shall any other lot area be reduced beyond the district requirements of this Zoning Ordinance.

E. Every building or structure hereafter erected or structurally altered shall be located on a lot as defined, and in no case shall there be more than one (1) main building on one (1) lot, except as provided in parts of this ordinance.

4.13 Properties with Multiple Zoning Designations

When an individual recorded parcel, which exists at the time of adoption of this ordinance, has more than one zoning classification, the zoning designation which comprises the majority of the parcel area shall be applied to the entire parcel.

4.14 Uses Contrary to Federal, State or Local Statutes, Laws, and/or Ordinances

Uses for enterprises or purposes that are contrary to Federal, State, and Township statutes, laws, and/or ordinances are prohibited.

HOUSING DEVELOPMENT TOOLKIT

September 2016

THE WHITE HOUSE
WASHINGTON

Contents

Executive Summary

Over the past three decades, local barriers to housing development have intensified, particularly in the high-growth metropolitan areas increasingly fueling the national economy. The accumulation of such barriers – including zoning, other land use regulations, and lengthy development approval processes – has reduced the ability of many housing markets to respond to growing demand. The growing severity of undersupplied housing markets is jeopardizing housing affordability for working families, increasing income inequality by reducing less-skilled workers' access to high-wage labor markets, and stifling GDP growth by driving labor migration away from the most productive regions. By modernizing their approaches to housing development regulation, states and localities can restrain unchecked housing cost growth, protect homeowners, and strengthen their economies.

Locally-constructed barriers to new housing development include beneficial environmental protections, but also laws plainly designed to exclude multifamily or affordable housing. Local policies acting as barriers to housing supply include land use restrictions that make developable land much more costly than it is inherently, zoning restrictions, off-street parking requirements, arbitrary or antiquated preservation regulations, residential conversion restrictions, and unnecessarily slow permitting processes. The accumulation of these barriers has reduced the ability of many housing markets to respond to growing demand.

Accumulated barriers to housing development can result in significant costs to households, local economies, and the environment.

- Housing production has not been able to keep up with demand in many localities, impacting construction and other related jobs, limiting the requisite growth in population needed to sustain economic growth, and limiting potential tax revenue gains.

- Barriers to housing development are exacerbating the housing affordability crisis, particularly in regions with high job growth and few rental vacancies.

- Significant barriers to new housing development can cause working families to be pushed out of the job markets with the best opportunities for them, or prevent them from moving to regions with higher-paying jobs and stronger career tracks. Excessive barriers to housing development result in increasing drag on national economic growth and exacerbate income inequality.

- When new housing development is limited region-wide, and particularly precluded in neighborhoods with political capital to implement even stricter local barriers, the new housing that does get built tends to be disproportionally concentrated in low-income communities of color, causing displacement and concerns of gentrification in those neighborhoods. Rising rents region-wide can exacerbate that displacement.

- The long commutes that result from workers seeking out affordable housing far from job centers place a drain on their families, their physical and mental well-being, and negatively impact the environment through increased gas emissions.

- When rental and production costs go up, the cost of each unit of housing with public assistance increases, putting a strain on already-insufficient public resources for affordable housing, and causing existing programs to serve fewer households.

Modernized housing regulation comes with significant benefits.

- Housing regulation that allows supply to respond elastically to demand helps cities protect homeowners and home values while maintaining housing affordability.

- Regions are better able to compete in the modern economy when their housing development is allowed to meet local needs.

- Smart housing regulation optimizes transportation system use, reduces commute times, and increases use of public transit, biking and walking.

- Modern approaches to zoning can also reduce economic and racial segregation, as recent research shows that strict land use regulations drive income segregation of wealthy residents.

Cities and states across the country are interested in revising their often 1970s-era zoning codes and housing permitting processes, and increasingly recognize that updating local land use policies could lead to more new housing construction, better leveraging of limited financial resources, and increased connectivity between housing to transportation, jobs and amenities.

This toolkit highlights actions that states and local jurisdictions have taken to promote healthy, responsive, affordable, high-opportunity housing markets, including:

- Establishing by-right development
- Taxing vacant land or donate it to non-profit developers
- Streamlining or shortening permitting processes and timelines
- Eliminate off-street parking requirements
- Allowing accessory dwelling units
- Establishing density bonuses
- Enacting high-density and multifamily zoning
- Employing inclusionary zoning
- Establishing development tax or value capture incentives
- Using property tax abatements

"We can work together to break down rules that stand in the way of building new housing and that keep families from moving to growing, dynamic cities."
-- President Obama, remarks to the U.S. Conference of Mayors, January 21, 2016

A stable, functioning housing market is vital to our nation's economic strength and resilience. Businesses rely on responsive housing markets to facilitate growth and employee recruitment. Construction workers, contractors, and realtors depend on stable housing markets to fuel their careers. And the availability of quality, affordable housing is foundational for every family – it determines which jobs they can access, which schools their children can attend, and how much time they can spend together at the end of a day's commutes.

Our nation's housing market was in crisis when President Obama took office. In the first quarter of 2009, national home prices had fallen roughly 20 percent since mid-2005, leaving nearly 13 million households underwater. Today, the market nationwide has made tremendous strides, as the recovery helped households regain $6.3 trillion of the real estate equity lost during the recession and lifted 7.4 million households out of negative equity since 2011, more than cutting in half the number of homeowners underwater.

This national recovery, while central to our broader economic recovery, has occurred during a period of increasing awareness of underlying regional challenges in housing markets. The recovery has been measured in home and property values but new production starts have not kept pace with historic levels we saw before the recession. In a growing number of metropolitan areas, the returning health of the housing market and vibrant job growth haven't led to resurgent construction industries and expanding housing options for working families, due to state and local rules inhibiting new housing development that have proliferated in recent decades. In such regions, these rules have resulted in undersupplied markets, reducing options for working families and causing housing costs to grow much faster than wages and salaries. And as Matthew Desmond recently documented in *Evicted*, families facing extreme rent burden often suffer lasting trauma resulting from their housing insecurity, destabilizing their lives and marring their prospects for upward economic mobility.[1]

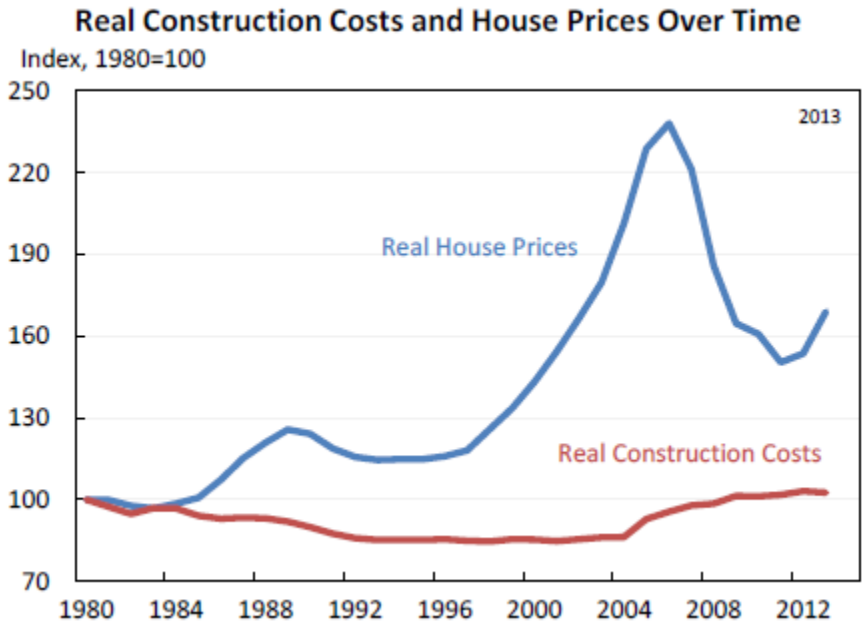
As fewer families have been able to find affordable housing in the regions with the best jobs for them, labor mobility has slowed, exacerbating income inequality and stifling our national economic growth. But this hasn't happened everywhere. In more and more regions across the country, local and neighborhood leaders have said yes, in our backyard, we need to break down the rules that stand in the way of building new housing – because we want new development to replace vacant lots and rundown zombie properties, we want our children to be able to afford their first home, we want hardworking families to be able to take the next job on their ladder of opportunity, and we want our community to be part of the solution in reducing income inequality and growing the economy nationwide.

This toolkit highlights the steps those communities have taken to modernize their housing strategies and expand options and opportunities for hardworking families.

Prevalence of Local Barriers to Housing Development

Over the past three decades, local barriers to housing development have intensified, particularly in the high-growth metropolitan areas increasingly fueling the national economy. Locally-constructed barriers to new housing development include beneficial environmental protections or well-intentioned permitting processes or historic preservation rules, but also laws plainly designed to exclude multifamily or affordable housing. Local policies acting as barriers to housing supply include land use restrictions that make developable land much more costly than it is inherently, zoning restrictions, off-street parking requirements, arbitrary or antiquated preservation regulations, residential conversion restrictions, and unnecessarily slow permitting processes.

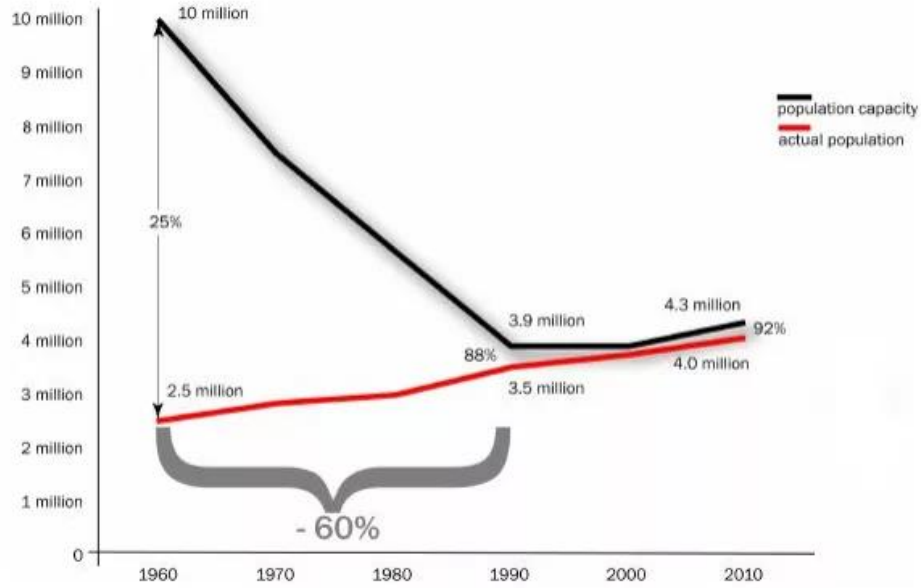
Though no comprehensive and uniform measure for such barriers exists, given the wide range of local regulations and processes affecting housing development volumes and timelines, several national and local indicators support the observations of housing researchers and practitioners that such barriers have tightened. Researchers examining proxy measures – including the prevalence of zoning and land use cases in state courts, which correlate strongly with static indices of housing barriers and supply constraint surveys – have found that barriers to housing development increased rapidly from 1970 to 1990, and continue to increase through the present day.[2] Researchers have also documented a sharp increase in the gap between home prices and construction costs, with stringent housing regulations now driving cost increases previously shaped by construction costs and quality improvements.[3,4] Localized studies have supported these national conclusions – documenting sharp increases in zoning and other land use restrictions in metropolitan Boston,[5] New York City,[6] Los Angeles,[7] and San Francisco.[8]



Source: Gyourko, Malloy (2015)

Barriers to housing development are erected largely at the local level, and vary widely across states and metropolitan areas as a result. But the intensity and impact of such barriers are most evident in the vibrant job-generating regions where fervent demand far outstrips supply. Though popular coverage of these challenges has been most focused on the Bay Area, Seattle, and major East Coast cities, Los Angeles provides a clear illustration of the impact of the primary barrier to development – restrictive zoning. In 1960, Los Angeles was zoned to accommodate 10 million people; after decades of population growth and increased demand, the city is today zoned for only 4.3 million people.[9] As Los Angeles leaders face a housing affordability and homelessness crisis, Mayor Garcetti and members of the City Council have tackled this problem by endorsing state plans to increase development and pushing for updated city plans and approval processes to facilitate new housing construction, in addition to committing new city funds toward affordable housing.

Los Angeles – Zoned Residential Capacity Over Time



Source: Morrow (2016)

The vast majority of the nation's largest cities are feeling the crush of sharply increased housing costs outpacing wages, with 9 of the largest 11 cities seeing rising rents and tightening vacancy rates, but this problem is now being felt in smaller cities and non-coastal locations that have historically enjoyed the benefits that come with an adequate supply of housing affordable to low- and moderate-income families. Growing, dynamic cities like Atlanta, Denver, and Nashville used to be able to tout housing affordability as a key asset – but now see rents rising above the reach of many working families.[10] Inland cities have experienced some of the largest increases in rent in recent years, despite lacking the topological space constraints faced by coastal cities.

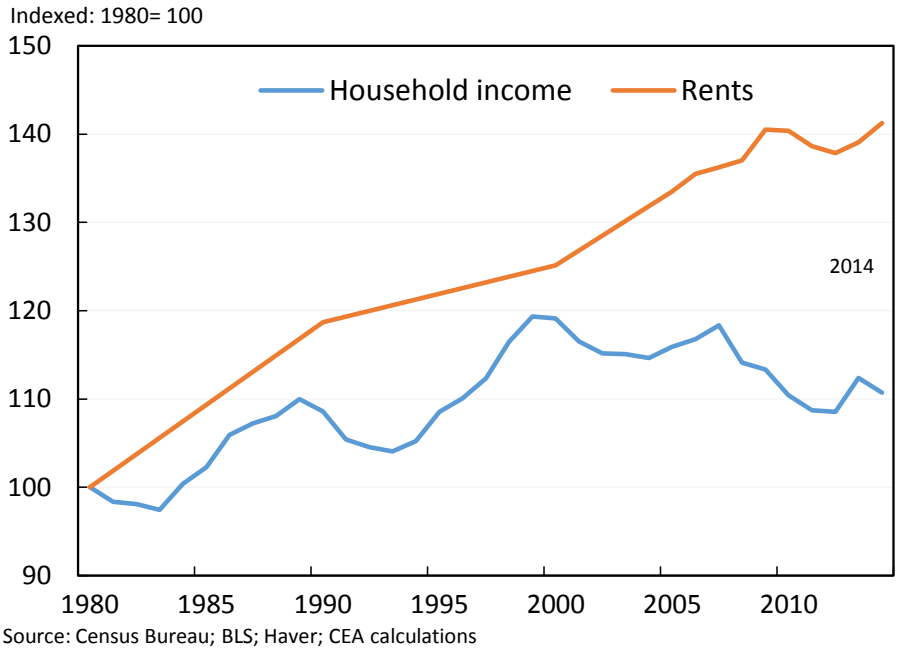
Effects of Local Barriers to Housing Development

The accumulation of state and local barriers to housing development – including zoning, other land use regulations, and unnecessarily lengthy development approval processes – has reduced the ability of many housing markets to respond to growing demand. The increasing severity of

undersupplied housing markets is jeopardizing housing affordability for working families, exacerbating income inequality by reducing workers' access to higher-wage labor markets, and stifling GDP growth by driving labor migration away from the most productive regions.

These effects are increasingly visible in communities nationwide. In just the last 10 years, the number of very low-income renters paying more than half their income for rent has increased by almost 2.5 million households, to 7.7 million nationwide, in part because barriers to housing development are limiting housing supply.[11] Since 1960, the share of renters paying more than 30 percent of their income for rent has more than doubled from 24 percent to 49 percent.[12] And over that time, real household income increased by 18 percent, but inflation adjusted rents rose by 64 percent.

Median rents vs. median household income, 1980-2014



Source: Census Bureau; BLS; Haver; CEA calculations

Emerging research has shown that in areas with high-cost housing such as California, zoning and other land-use controls contribute significantly to recent sharp cost increases, reflecting the increasing difficulty of obtaining regulatory approval for building new homes.[13]

Not all barriers to housing development have negative impacts – local land use policies and regulations can increase the supply of well-located affordable housing, address externalities such as environmental impacts associated with development, create better connections between housing options accessible to transit, and support the fiscal health of states and localities. But the accumulation of even well-intentioned land-use policies can restrict housing availability; create uncertainty for developers and limit private investment; exacerbate the imbalance between jobs and housing; and induce urban sprawl.

Costs and negative impacts of excessive barriers to housing development

Housing production has failed to expand in too many regions with strong demand, artificially depressing the availability of construction and related jobs, limiting the ability for local populations to expand in response to job growth, and reducing the potential for increased local tax revenue. In these regions, new market-rate construction shifts toward predominantly, and sometimes exclusively, larger or higher-end units as a manifestation of supply constraints, because when there are large fixed costs to building, as is the case when land use policies are onerous, even developers that aren't profit-maximizing find it difficult to make profits from smaller or more affordable units.

Barriers to housing development are exacerbating the **housing affordability** crisis, particularly in vibrant regions with high job growth and few rental vacancies.[14,15,16] The most recent data shows that half of renters pay more than 30 percent of their income in rent,[17] and more than 1 in 4 are severely rent-burdened, paying more than 50 percent of their income in rent. [18] For families working to buy their first home, rent burdens delay their plans, making it more difficult to save for a down payment. While the housing market recovery has meant growing home values for existing homeowners, barriers to development concentrate those gains among existing homeowners, pushing the costs of ownership out of reach for too many first-time buyers. This has contributed to a lower homeownership rate in the US, which has fallen to its lowest level in 50 years.[19] Homelessness is on the rise in some of our nation's most rent-burdened cities despite continued decreases in homelessness nationwide – for example, according to figures released by local homelessness coalitions, Washington, D.C. saw a 31 percent increase in family homelessness last year amid a 14 percent increase in homelessness overall, and homelessness grew by 6 percent in Seattle and Los Angeles.

Increasingly, working families are pushed out of the job markets with the best opportunities for them, or can't afford to move to regions with higher-paying jobs and stronger career tracks. As Jason Furman recently discussed in a National Press Club speech, this phenomenon exacerbates **income inequality**. For the first time in over 100 years, income convergence across states has stopped, as population flows to wealthier regions has decreased – which researchers attribute to increased housing prices as a result of high local barriers to housing development.[20] Where housing markets are able to respond more elastically, workers can shift to meet job and wage growth through relocation, reducing income inequality.

When large flows of workers are unable to move to the jobs where they would be most productive, local barriers result in increasing **drag on national economic growth**. A recent study noted that in theoretical models of mobility, economic research suggests our Gross Domestic Product would have been more than 10 percent higher in 2009 if workers and capital had freely moved so that the relative wage distribution remained at its 1964 level.[21] Most of this loss in wages and productivity is caused by increased constraints to housing supply in high-productivity regions, including zoning regulations and other local rules. This estimate is tentative, and would imply that some cities would see counterfactual employment increases of a significant magnitude resulting from reduced housing restrictions, but the underlying point is clear: output is lost when the supply of workers to high-productivity regions is restrained. Over time, this effect can be large enough to meaningfully reduce the nation's overall economic output.

When new housing development is limited region-wide, and particularly precluded in neighborhoods with political capital to implement even stricter local barriers, any new development tends to be disproportionally concentrated in low-income communities of color, causing displacement and concerns of **gentrification** in those neighborhoods, raising market rents within neighborhoods experiencing rapid changes while failing to reduce housing cost growth region-wide.[22] As rents rise region-wide in response to insufficient housing supply, this displacement is exacerbated. Lowered region-wide barriers to new housing development would lead to more equitable distribution, allowing neighborhoods to retain character and resources as they evolve, while facilitating effective affordable housing preservation options by preventing excessively rapid change that generates displacement and dislocation.

As workers get pushed further and further from job centers – driving from Modesto to San Francisco, for example, often two hours each way – excessively **long commutes** pull them away from time with their families, increase strains on mental health and happiness, and contributing to further greenhouse gas emissions.[23,24,25,26] The impact of these strains is being felt throughout the middle class, hurting workers that provide critical services like teachers, police officers and firefighters. For example, recent reports highlighted at least a dozen San Jose police officers living in RVs in a parking lot near Police Department headquarters to cope with the long commutes required by the lack of affordable housing nearby.[27]

When barriers to housing development drive up rental and production costs, they constitute a countervailing force on housing assistance programs, reducing the impact of already-insufficient government resources for affordable housing. This **strain on public resources** occurs at all levels – federal, state and local. While President Obama's budget calls for increasing investments to provide affordable housing and end family homelessness, HUD's existing project-based and housing choice vouchers could serve more families if the per-unit cost wasn't pushed higher and higher by rents rising in the face of barriers to new development. In order to build affordable housing, developers are often forced to supplement funding sources like tax credits with additional equities and loans, drawing down on state-allocated housing finance agency resources and city-held CDBG dollars. As each of these sources is piled onto a critical affordable housing resource, it is not available for preservation or additional new affordable housing elsewhere in the region.

Benefits of smart housing regulation

Housing regulation that allow supply to **respond elastically to demand** helps cities protect homeowners and home values while maintaining housing affordability. As cities make investments to attract residents and businesses, vibrant hubs of jobs and culture have attracted far more potential residents than many cities' current zoning practices can accommodate. Without building adequate housing to meet the increased demand, cities that have invested in services for their residents see rents soar, making those benefits inaccessible to those they were intended to help. By allowing housing development to respond to demand, cities would capture the increased tax revenue they hope to draw by attracting more residents, and relieve pressure on existing working families that would otherwise be priced out of their communities and forced to move.

Regions are better able to **compete in the contemporary economy** when their housing development is allowed to meet local needs. When jobs and people move freely, local economies flourish, as adequate housing development reduces mismatches between housing and infrastructure, or housing and jobs. For decades, Sunbelt cities with more permeable boundaries have enjoyed outsized growth by allowing sprawl to meet their need for adequate housing supply. Space constrained cities can achieve similar gains, however, by building up with infill, reducing the eyesores of vacant lots and vacant or rundown buildings that go undeveloped in highly constrained regulatory environments. This approach facilitates cities expanding their economies across all sectors, including the essential service sector jobs that allow cities to remain attractive, rather than concentrating growth at the high end of the economy.

Smart housing regulation **optimizes transportation system use, reduces commute times, and increases use of public transit, biking and walking**. A preponderance of a metro area's commuters living far from work in pursuit of affordable housing prevents infrastructure, including public transit, from being used efficiently and effectively. Smart housing regulation would close the gap between proximity and affordability. More residents with access to walking, biking and public transit options also means less congestion on the roads and overall reductions in traffic congestion, greenhouse gas emissions, and commute times.

Modern approaches to zoning can also **reduce economic and racial segregation**, as recent research shows that strict land use regulations drive income segregation of wealthy residents.[28] Inclusionary zoning laws that facilitate working families accessing high-opportunity neighborhoods are effective in reducing segregation and improving educational outcomes for students in low-income families.[29] Research also finds that more localized pressure to regulate land use is linked to higher rates of income segregation, while more state involvement in setting standards and baselines for land use is connected to lower income segregation, reinforcing to the key role that states can play in ensuring access to affordable housing is an even playing field for all residents.[30]

Spotlight: Local Barriers and Housing Discrimination

In tight rental markets, renters flood landlords advertising quality, affordable housing. The stronger the local barriers to development, and the tighter the market, the higher the demand for units. High demand often reflects quality housing options; however, when rental supply is unresponsive to demand, competition can be high for even low-quality units. In such situations, it can be extremely difficult for low-income families to find the quality affordable housing they need, even when they receive a HUD Housing Choice Voucher to aid them with their rent – because some landlords simply refuse to rent to voucher-holders, a practice particularly jarring to the thousands of families struggling to escape homelessness through use of a housing voucher.

Federal fair housing law explicitly prohibits landlords from discriminating against renters on the basis of race, religion, familial status or other protected classes. But many states and localities consider discrimination on the basis of voucher payment for rent to be legal in the absence of explicit source-of-income protections. Available evidence indicates that renter discrimination is widespread, and most harmful in high-barrier rental markets with limited housing options for families receiving rental assistance, hindering efforts to enable more low-income families to access affordable housing in opportunity-rich neighborhoods.

Discrimination against voucher holders is prevalent nationwide, especially in high-cost markets, and remains prevalent even in the 13 states and dozens of localities that have made such discrimination explicitly illegal. Though cities like Chicago, Philadelphia, and Pittsburgh have these laws in place, local investigative reporting has documented high rates of ongoing, illegal renter discrimination. For example, landlords post "no Section 8" tags on sites like Craigslist.org, especially for units in relatively low-poverty areas where constraints to housing development are often highest. The rarely-enforced fine for this violation in Chicago is $500.

Renter discrimination reduces voucher success rates, limiting low-income households' housing options in general, and particularly their ability to move to high-opportunity neighborhoods. The Administration's actions to increase economic mobility, reduce local barriers to housing development, advance fair housing, end homelessness, and expand access to opportunity depend in part on the ability of low-income families to lease units in neighborhoods of their choosing.

Barriers to housing development that prevent supply from responding elastically to demand put additional pressure on landlords and the rental market. Discrimination, even inadvertent discrimination, increases when market conditions increase competition among renters. Unsurprisingly, many cities with the highest local barriers have seen increases in homelessness in recent years, while nationwide homelessness has been sharply in decline.

Vouchers are a critical tool for meeting the Administration's goals of ending veteran, chronic, and family homelessness. The President's historic FY 2017 budget proposal to end homelessness by 2020 for every family with children nationwide would invest $11 billion over 10 years, primarily in vouchers, to end families' homelessness, stabilize their housing, and give them a foundation to succeed economically. These goals will be easier to achieve if local leaders reduce barriers to housing development and end renter discrimination in their jurisdictions.

Framework for Modern Housing Strategies

Cities across the country are interested in revising their often 1950s-era zoning codes and housing permitting processes, and increasingly recognize that updating local land use policies could lead to more new housing construction, better leveraging of limited financial resources, and increased connectivity between housing to transportation, jobs and amenities. The President's FY 2017 HUD budget includes a $300 million proposal for Local Housing Policy Grants to help facilitate those cities' success in modernizing their housing regulatory approaches.

In markets with high demand but currently inelastic supply, these modern housing approaches are likely to lead to more new housing construction, including multifamily rental construction. Though much of that housing would likely be market-rate housing, its introduction into the marketplace would help slow cost growth in existing and otherwise affordable housing. In markets that have not yet but are poised to experience rapid economic growth in the near to mid-term (e.g., as result of their advantageous location, emerging industrial growth, or surge in resource extraction), promising practices can be embedded into local action as they develop their economic growth strategy to ensure that sustained economic growth is achieved.

The Administration has also taken action to reinforce these practices, as the Department of Transportation now examines cities' housing regulatory approaches, and their ability to respond elastically to new demand generated by transit projects, as part of their Small Starts and New Starts project reviews.

Cities like Chicago, Seattle, Sacramento, and Tacoma and states like California and Massachusetts have already begun to foster more affordable housing opportunities by removing restrictions, implementing transit-oriented zoning ordinances, and speeding up permitting and construction processes.

Role of states and localities

Both states and cities have proven they can break free of the constraints that have stifled responsive supply and driven up housing costs across the country. While most states have devolved land use control to localities and remain relatively hands-off when it comes to land use planning, a number of states have begun to take a more active role in reducing regulatory barriers. A strong baseline at the state level creates an even playing field for local land use decisions.

Cities and other localities have the greatest opportunity to innovate in efforts to reduce barriers to housing supply, given their proximity to the effects of either a constrained or flexible supply. Without action, excessive local barriers drive up housing costs, undermining affordable housing at most income levels, and resulting in declines in homeownership. Demonstrated success in addressing these challenges can help overcome apprehension about neighborhoods evolving and growing through new development.

Spotlight: Impacts on the Ground

"As the head of EMPath, a Boston-based non-profit, that helps low-income families move out of poverty, one of the greatest hurdles my staff and participants face is finding affordable housing. When we first start working with our participants, many of them are homeless and trying to make their way from emergency shelters into permanent housing. Affordable housing in Greater Boston is in such short supply, and the costs are so high that, at their average wages ($10/hr), participants have to work 97 hours a week in order to afford the Fair Market rent on a one-bedroom apartment. If they seek lower cost housing outside of Boston, moving often rips apart the work, childcare, and support systems they count on to maintain their precarious family and financial stability.

And my staff experience similar problems. Pay at my organization is far from minimum wage. The average employee at EMPath has a Bachelor's degree and makes about $26/hour. But even at this level, it is hard for staff to find affordable housing in the city and many of them move as much as 25+ miles away in order lower housing costs. When they do this, they add hours of commuting to their work week and easily spend $360+/month for their monthly transit passes. We routinely have to alter work schedules and the offices where our staff work in order to accommodate their commuting needs.

As can be seen from all of this, high housing costs create a drag on everything we are trying to do: stabilize people's lives, decrease their dependence on public supports, get them into the workforce, and run our non-profit business. It is fundamentally important to address this issue if we are going to succeed in improving our economy and opportunity for low and middle income workers."

Elisabeth Babcock
President and CEO
EMPath – Economic Mobility Pathways
Boston, MA

Toolkit – Taking Action

This toolkit highlights actions taken by states and local jurisdictions to promote healthy, responsive, high-opportunity housing markets, despite the common and sometimes challenging political barriers to reform and improvement. This list is not exhaustive – there is a substantial amount of good work being done all around the country – but provides several potential starting points for local efforts to modernize housing planning and development.

1. Establish by-right development

Most development today goes through a discretionary review process prior to approval, such as public hearings or local legislative actions. These processes predispose development decisions to become centers of controversy, and can add significant costs to the overall development budget due to the delay and uncertainty they engender. The tradeoffs that developers make to account for those additional costs can result in lost affordability, quality, or quantity of units developed. "As-of-right" or "by-right" development allows projects to be approved administratively when proposals meet local zoning requirements.[31] Such streamlining allows for greater certainty and more efficient development and, depending on a locality's regulatory approach, supports lessening of barriers from density limits and other zoning requirements. It can also be targeted to achieve public goals by making "by-right" approval contingent on increased affordable housing, transit-oriented development, or energy efficiency.

A 2014 report by the Urban Land Institute concludes that "municipalities can facilitate more efficient development time frames and reduce costs by enabling more by-right development. This can be accomplished by relaxing restrictions related to density, building height, unit size, and parking minimums, thereby freeing developers from the need to seek waivers, variances, or rezoning." [32]

Some states have enacted or pursued these approaches in efforts to facilitate affordable housing development. In California, Gov. Jerry Brown recently proposed a policy that would ensure that new developments that conform with existing local zoning rules and include set-asides for affordable housing would be approved "by right" – as long as the project is not located on sensitive sites, such as wetlands, farmland, flood plains, and earthquake fault zones, additional discretionary review requirements would be no longer be required, facilitating more rapid development of affordable housing at lower costs.

States can also encourage localities to allow by-right development. For instance, Massachusetts allows communities to designate areas as Priority Development Sites, a designation that provides an incentive for municipalities to allow by-right development in localities where they seek to encourage economic growth.[33]

Fairfax County, VA, has implemented by-right development in seven districts, with the goal of encouraging economic development through flexibility in zoning regulations and administrative processes in older commercial areas. These more flexible zoning regulations

include 40-50 foot increases in building height, parking requirement reductions, and abbreviated fees and approval processes for development changes.[34]

2. Tax vacant land or donate it to non-profit developers

Nationwide, the number of vacant residential units increased from 7 million in 2000 to 10 million in 2014.[35] Vacant and abandoned properties not only represent lost housing opportunities, but can cause significant harm to the surrounding neighborhood. Strategies to address these properties can reduce blight and place them back into productive use. In-fill development can have significant environmental benefits, as well-resourced urban land can be accessed by more people and can also result in larger ridership for public transit when in proximity to city centers. A 2014 study found that in the Cleveland area, the sale price of homes within 500 feet of a vacant property depreciated by 1.7 percent in low-poverty areas and 2.1 percent in medium-poverty areas,[36] while a 2010 University of Pittsburgh study concluded that the rate of violent crime within 250 feet of a vacant property is 15% higher than that within 250 and 353 feet from the property.[37] Local governments bear the costs of these vacant properties. A 2010 study found that Philadelphia spends more than $20 million annually to maintain 40,000 vacant properties, which cost the city over $5 million per year in lost tax revenue[38].

Localities often face challenges in identifying vacant properties,[39] but many jurisdictions have enacted vacant property registration ordinances that require individuals to register vacant land and often pay a fee, with cities in Florida, California, Illinois and Michigan leading the way in implementation. Many localities in these states increase the fees the longer a property remains vacant, which encourages lot owners to put their properties to more productive use, such as redevelopment.[40] Once vacant property has been identified, jurisdictions are able to take action to combat the lost revenue and blight that come with vacant property by taxing vacant land or donating to non-profit developers.

At the city level, Dallas has addressed vacant property through a land bank, a "government-created nonprofit corporation designed to convert tax-delinquent and vacant properties into affordable housing or other productive uses,"[41] which provides "a tool to enable cities to more effectively…pursue tax foreclosure on unproductive vacant properties in return for…placement into productive use in the development of affordable housing."[42] Dallas also acquires vacant lots for affordable single-family housing development, and allows nonprofit groups to develop affordable housing by purchasing foreclosed vacant lots or surplus vacant lots from the city's inventory at below market price, enabling Dallas to reduce the blight of vacant lots and foster more affordable housing development.[43]

3. **Streamline or shorten permitting processes and timelines**

Permitting processes can introduce yet another source of cost and uncertainty in the effort to increase housing supply through production. Unnecessarily lengthy permitting processes restrict long-run housing supply responsiveness to demand, and also present an inefficiency for city planners and reviewers whose time could be more effectively spent on essential

tasks. Most localities' permitting processes do not fully leverage new technology to achieve greater speed, reliability and efficiency.

San Diego and Austin are two of many cities that have tackled these challenges, streamlining and shortening their permitting processes. San Diego's Expedite Program allows for expedited permit processing for eligible affordable/in-fill housing and sustainable building projects, with a 5 business day initial review.[44] In 2000, the Austin City Council created the S.M.A.R.T. Housing program which offers developers of housing that serves low-income families waivers for development fees and expedited development review; since 2005, more than 4,900 housing units have been completed through this approach.

States have also taken action, with both Rhode Island and Massachusetts driving localities toward more streamlined processes. The Rhode Island 2009 Expedited Permitting for Affordable Housing Act provides state permitting agencies with strict deadlines for making their decisions, for transit-oriented, dense, or historic preservation projects that are large enough to meaningfully increase availability of affordable housing in their communities. Massachusetts developed a model set of local permitting practices, with guidelines including predictable impact fees, use of objective criteria for by-right zoning, and uniform timelines. By incentivizing efficient permit processing at the state and local level, communities are better positioned to accelerate development, resulting in increased housing production, more stability for contractors and construction workers, and less risk for investors.

4. **Eliminate off-street parking requirements**

Parking requirements generally impose an undue burden on housing development, particularly for transit-oriented or affordable housing. When transit-oriented developments are intended to help reduce automobile dependence, parking requirements can undermine that goal by inducing new residents to drive, thereby counteracting city goals for increased use of public transit, walking and biking. Such requirements can also waste developable land, and reduce the potential for other amenities to be included; a recent Urban Land Institute study found that minimum parking requirements were the most noted barrier to housing development in the course of their research.[45] By reducing parking and designing more connected, walkable developments, cities can reduce pollution, traffic congestion and improve economic development. Businesses that can be accessed without a car can see increased revenue, increased use of alternative modes of transportation, and improved health outcomes for residents.

These requirements have a disproportionate impact on housing for low-income households because these families tend to own fewer vehicles but are nonetheless burdened by the extra cost of parking's inclusion in the development. The significant cost of developing parking – from $5,000 per surface parking spot to $60,000 underground – is incorporated at the start of the project, which can impede the viability and affordability of the construction.[46]

In 2012, Seattle's city council voted to relax parking requirements, eliminating requirements in center-city areas with frequent transit services within ¼ mile, and reducing them by 50 percent in neighborhoods outside of those centers given the same minimum level of transit

service – sparking a wave of new development, including hundreds of units with no associated parking spaces. The study that accompanied this legislative change found that parking reduced the potential number of units at a site and increased the expected rental costs by 50 percent for a building without parking as compared to that with the mandated level of surface parking.[47]

Cities such as Denver, Minneapolis and New York City have also demonstrated success in taking on minimum parking requirements – Denver lowered parking minimums for low-income housing, Minneapolis reduced requirements near transit stops, and New York City eliminated parking requirements for affordable housing located within ½ mile of a subway entrance. The Association of Bay Area Governments also published a rubric guiding parking requirement reform across the region, which accompanies the Metropolitan Transportation Commission's Smart Parking Toolbox and funds parking plans for transit station areas. And in 2015, the State of California enacted a statewide override of local parking requirements for all residential projects near transit that incorporated affordable units.

5. Enact high-density and multifamily zoning

Local zoning code changes that allow for the development of higher-density and multifamily housing, especially in transit zones, can help to alleviate some of the pressure of the growing population in many city centers. In Massachusetts, the Smart Growth Zoning act provides incentives to local governments that make zoning changes and establish smart growth zoning districts, to foster, near transit nodes and city/town centers, denser residential or mixed-use zoning districts, including affordable units.[48] More recently, in June, the Fairfax, VA County Board of Supervisors approved changes to zoning codes to allow for taller buildings near Metro stations.[49] In Seattle, the city has nearly 800 micro-units with another 1,500 or so in the pipeline – more than any other city – yet, changes to the zoning code will disallow future approvals of such housing.[50]

6. Allow accessory dwelling units

Accessory dwelling units can expand the available rental housing stock in areas zoned largely for single-family housing and can address the needs of families pulled between caring for their children and their aging parents, a demographic that has been growing rapidly in recent years. As a result of the recent recession, young adults have achieved financial independence at a slower rate than prior generations. While the number of Americans caring for both an aging parent and a child has increased only marginally, the costs associated with caring for multiple generations has increased significantly as a greater share of parents support their children beyond age 18.[51] Accessory dwelling units offer one solution to this challenge by facilitating intergenerational living arrangements and allowing more seniors to age in place, something that nearly 90% of older Americans desire for themselves and their families.[52] In addressing the temporary needs of families that are stretched thin, accessory dwelling units can create a permanent increase in affordable housing stock. Cities like Portland and Santa Cruz had explicitly encouraged this action, while others like San Diego have called for changes to allow more such units. The State of California moved earlier this month to streamline state regulations to promote construction of accessory dwelling units.

7. Establish density bonuses

Density bonuses encourage housing development and incentivize the addition of affordable housing units by granting projects in which the developer includes a certain number of affordable housing units the ability to construct a greater number of market rate units than would otherwise be allowed. Density bonuses are frequently tied to community goals of increased affordable housing and can be effective in driving larger quantities of units supplied through new construction. The State of California requires its local governments to grant a density bonus and concession or development incentive, if requested, for developments of five or more units including minimum portions of affordable housing or for senior housing.

8. Employ inclusionary zoning

Inclusionary zoning requires or encourages the inclusion of affordable units in new residential development projects. As of 2014, such policies had been implemented by nearly 500 local jurisdictions in 27 states and the District of Columbia.[53] Not only have such policies expanded the availability of affordable housing while allowing for new development that otherwise might have been locally opposed, they have also been shown to improve educational outcomes for low-income children gaining access to higher-performing schools.[54]

As the Lincoln Institute of Land Policy has noted, inclusionary zoning policies require upfront commitment to long-term affordability, and perform best when both producing and preserving affordable housing.[55] While enforcement is a frequently cited obstacle to successful inclusionary housing requirements, Massachusetts' Chapter 40B provisions enables the local Zoning Boards of Appeals to approve affordable housing developments under flexible rules if at least 20-25% of the units have long-term affordability restrictions. This flexibility reduces barriers created by local approval processes and zoning.[56]

9. Establish development tax or value capture incentives

Tax incentives for developers who construct affordable housing offer another avenue to incentivize development; such incentives have been demonstrated to spur development, and have recently been adopted in Seattle and New York City. The Seattle Multifamily Tax Exemption program, which was modified and renewed in 2015, provides property owners and developers a tax exemption on new multifamily buildings that set aside 20-25% of the homes as income- and rent-restricted for 12 years; currently approximately 130 properties in Seattle are participating in the program and an additional 90 are expected to begin leasing MFTE units between 2016 and 2018. Adopted in 2015, The New York 420-c Tax Incentive program provides complete or partial exemption from real estate taxes for low-income housing up to a maximum of 60 years.

10. Use property tax abatements

Like tax incentives, property tax abatements or exemptions can encourage the construction of affordable housing and spur development more generally, including by providing abatements to affordable housing production during the development phase. In 1985, Oregon adopted an approach to provide property tax abatements to properties in which units will be exclusively available to eligible low-income individuals or to vacant land intended to be developed as low-income housing. Philadelphia offers a tax abatement from real estate tax for up to 30 months during the construction of residential housing.[57]

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MEMORANDUM

To: Shawn Winters, Zoning Administrator
From: Jeffrey L. Jocks
Date: October 5, 2016
Re: Recommendations resulting from amendment to the Michigan Medical Marihuana Act, and enactment of the Medical Marihuana Facilities Licensing Act and the Marihuana Tracking Act.

On September 22, 2016 Governor Snyder signed an amendment to the Medical Marihuana Act and also signed two new medical marihuana bills – the Medical Marihuana Facilities Licensing Act and the Marihuana Tracking Act. All three are closely linked and impact each other.

Generally speaking, the Acts together resolve what has been an ongoing question and problem for municipalities since the original enactment of the Medical Marihuana Act in 2008. The Acts have created a mechanism for the growing, selling, transporting, processing and testing of medical marihuana on a larger scale and in a commercial manner. The mechanism revolves around a new licensing provision for each of the operation types which are known as marihuana facilities. The Acts now also allow marihuana-infused to be processed and sold. These include topical formulations, tinctures, beverages, edible substances, or similar products.

A marihuana facility exists where a person (individual, llc, corporation, etc) has a license to operate as one of the following: 1) a grower, 2) a processor, 3) a secure transporter, 4) a provisioning center, or 5) a safety compliance facility. Each of the five facility types have specific requirements under the Acts and will be subject to additional detailed rules that are adopted by the Medical Marihuana Licensing Board. In order to receive a license for any of the above, a person must make an application with detailed information to the Licensing Board. The Licensing Board will review each application based upon the standards in the Acts and the rules it creates and either approve or deny the application.

Each of the facility types have specific rules that apply to them which are important for a municipality to understand so that it can determine whether it will choose to allow them within its borders. Each municipality is free to decide which, if any, of the five facility types should be allowed within its borders. A municipality must affirmatively and expressly allow a facility type within its borders in order for a person to receive a license from the Licensing Board. That is, a municipality may prohibit any or all of the five facility types.

The five facility types are more specifically:

a. Grower

A grower is licensed to cultivate, dry, trim, cure and package marihuana for sale to a processor or provisioning center. There are three classes of growers based on the maximum number of plants – Class A - 500, Class B – 1,000, and Class C – 1,500. A grower can sell seeds, but only to other growers. A grower can sell marihuana, other than seeds, but only to a processor or provisioning center. A grower cannot have an interest in a secure transporter or a safety compliance facility. All marihuana or seeds that are sold may only be transported by a secured transporter. A grower must enter all transactions, current inventory and other information into the statewide monitoring system that is created by the Marihuana Tracking Act.

b. Processor

A processor is a commercial entity that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in a packaged form to a provisioning center. A processor can purchase marihuana only from a grower. A processor may sell marihuana-infused products or marihuana, but only to a provisioning center. All transfers must be done by means of a secure transporter. A processor must enter all transactions, current inventory and other information into the statewide monitoring system that is created by the Marihuana Tracking Act.

c. Secure Transporter

A secure transporter is a commercial entity that stores marihuana and transports marihuana between marihuana facilities for a fee. A secure transporter license does not authorize transport to a registered qualifying patient or registered primary caregiver. A secure transporter must enter all transactions, current inventory and other information into the statewide monitoring system that is created by the Marihuana Tracking Act.

d. Provisioning Center

A provisioning center is a commercial entity that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana at retail to registered qualifying patients, directly or through the patients' registered primary care givers. A provisioning center may only purchase marihuana from a grower or processor. It may only sell to registered qualifying patients or registered primary caregivers. A provisioning center may transfer marihuana to a safety compliance facility for testing, but only by a secure transporter. Retail sales may only be of tested and properly labeled products. A provisioning center must enter all transactions, current inventory and other information into the statewide monitoring system that is created by the Marihuana Tracking Act. A provisioning center cannot allow a physician to conduct examinations or issue certifications on the premises.

e. Safety Compliance Facility

A safety compliance facility is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility. It must be accredited by a certain date. A safety compliance facility must enter all transactions, current inventory and other information into the statewide monitoring system that is created by the Marihuana Tracking Act.

Some additional rules and limitations apply to some or all of the facility types. Growers, processors and provisioning centers may not have any interest in secure transporters or safety compliance facilities. A person may apply for any of the facility types to the Licensing Board beginning 360 days after the effective date of the Acts. Each application must have detailed information concerning the business, identities of owners, identities of other businesses involved in any marihuana activities and of spouses and relatives of owners that have an interest in such businesses. Applications must further state whether applicants have been indicted, charged, arrested, or convicted of felonies or controlled substance violations; a description of the facilities; a list of employees, and the expected profits; and, a notice to the municipality of the application.

Among other things, the Licensing Board may not issue a license if: 1) the applicant has been convicted or released from incarceration for a felony within the last 10 years, or convicted of a controlled substance felony within the last 10 years, and 2) the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty or fraud within the last 5 year

An important point of consideration in determining which, if any, of the marihuana facilities should be allowed in a municipality is the taxes that will be derived from the operation of a provisioning center. Three percent of the gross retail receipts of a provisioning center will be collected as an excise tax. Some of that money will return to municipalities as follows: 1) 25% to municipalities in which a marihuana facility is located and which will be allocated based on proportion of facilities in the municipality, 2) 30% will go to counties in which a marihuana facility is located and which will be allocated based on proportion of facilities in the municipality, and 3) 5% to the same counties exclusively for county sheriffs.

The determination you, as a municipality, must make is what, if any, of the above marihuana facilities you'd like to allow within your borders. Currently, you allow by zoning ordinance, dispensaries and cultivation operations. However, you have not adopted a licensing ordinance which is now required under the Acts. Therefore, upon the effective date of the new Acts, December 21, 2016, you will need to have a licensing ordinance in place to continue to

allow these uses.[1] In addition, changes to your zoning ordinance should be made to make it consistent with the amended laws.

It is my recommendation that the first step in moving forward under the new Acts is to determine which of the five marihuana facilities should be allowed. Then the next step will be to amend the zoning ordinance and draft a licensing ordinance accordingly.

[1] Note that technically the uses will not be legal until the State Licensing Board issues a license to the facility.

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Reps. Callton, Kivela, Howrylak, Durhal, Lyons, Pettalia, Hovey-Wright, Dianda, Chang, Neeley, Irwin, Pscholka, Bumstead, Yonker, Canfield, Kelly, Lucido, Maturen, Schor, Brinks, Faris, Banks, Byrd, Garrett, Gay-Dagnogo, Hoadley, Kesto, Kosowski, LaVoy, Love, Phelps, Potvin, Robinson, Runestad, Singh, Tedder and Webber

ENROLLED HOUSE BILL No. 4209

AN ACT to license and regulate medical marihuana growers, processors, provisioning centers, secure transporters, and safety compliance facilities; to provide for the powers and duties of certain state and local governmental officers and entities; to create a medical marihuana licensing board; to provide for interaction with the statewide monitoring system for commercial marihuana transactions; to create an advisory panel; to provide immunity from prosecution for marihuana-related offenses for persons engaging in marihuana-related activities in compliance with this act; to prescribe civil fines and sanctions and provide remedies; to provide for forfeiture of contraband; to provide for taxes, fees, and assessments; and to require the promulgation of rules.

The People of the State of Michigan enact:

PART 1. GENERAL PROVISIONS

Sec. 101. This act shall be known and may be cited as the "medical marihuana facilities licensing act".

Sec. 102. As used in this act:

(a) "Advisory panel" or "panel" means the marihuana advisory panel created in section 801.

(b) "Affiliate" means any person that controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership with a licensee or applicant.

(c) "Applicant" means a person who applies for a state operating license. With respect to disclosures in an application, or for purposes of ineligibility for a license under section 402, the term applicant includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

(d) "Board" means the medical marihuana licensing board created in section 301.

(e) "Department" means the department of licensing and regulatory affairs.

(f) "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

(g) "Licensee" means a person holding a state operating license.

(h) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(i) "Marihuana facility" means a location at which a license holder is licensed to operate under this act.

(j) "Marihuana plant" means any plant of the species Cannabis sativa L.

(k) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

(*l*) "Michigan medical marihuana act" means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(m) "Municipality" means a city, township, or village.

(n) "Paraphernalia" means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

(o) "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

(p) "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

(q) "Processor" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

(r) "Provisioning center" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.

(s) "Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the Michigan medical marihuana act.

(t) "Registered qualifying patient" means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(u) "Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(v) "Rules" means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.

(w) "Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

(x) "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

(y) "State operating license" or, unless the context requires a different meaning, "license" means a license that is issued under this act that allows the licensee to operate as 1 of the following, specified in the license:

(*i*) A grower.

(*ii*) A processor.

(*iii*) A secure transporter.

(*iv*) A provisioning center.

(*v*) A safety compliance facility.

(z) "Statewide monitoring system" or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

(*i*) Verifying registry identification cards.

(*ii*) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.

(*iii*) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, MCL 333.26424.

(aa) "Usable marihuana" means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

PART 2. APPLICATION OF OTHER LAWS

Sec. 201. (1) Except as otherwise provided in this act, if a person has been granted a state operating license and is operating within the scope of the license, the licensee and its agents are not subject to any of the following for engaging in activities described in subsection (2):

(a) Criminal penalties under state law or local ordinances regulating marihuana.

(b) State or local criminal prosecution for a marihuana-related offense.

(c) State or local civil prosecution for a marihuana-related offense.

(d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.

(e) Seizure of marihuana, real property, personal property, or anything of value based on a marihuana-related offense.

(f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(2) The following activities are protected under subsection (1) if performed under a state operating license within the scope of that license and in accord with this act, rules, and any ordinance adopted under section 205:

(a) Growing marihuana.

(b) Purchasing, receiving, selling, transporting, or transferring marihuana from or to a licensee, a licensee's agent, a registered qualifying patient, or a registered primary caregiver.

(c) Possessing marihuana.

(d) Possessing or manufacturing marihuana paraphernalia for medical use.

(e) Processing marihuana.

(f) Transporting marihuana.

(g) Testing, transferring, infusing, extracting, altering, or studying marihuana.

(h) Receiving or providing compensation for products or services.

(3) Except as otherwise provided in this act, a person who owns or leases real property upon which a marihuana facility is located and who has no knowledge that the licensee violated this act is not subject to any of the following for owning, leasing, or permitting the operation of a marihuana facility on the real property:

(a) Criminal penalties under state law or local ordinances regulating marihuana.

(b) State or local civil prosecution based on a marihuana-related offense.

(c) State or local criminal prosecution based on a marihuana-related offense.

(d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.

(e) Seizure of any real or personal property or anything of value based on a marihuana-related offense.

(f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(4) For the purposes of regulating the commercial entities established under this act, any provisions of the following acts that are inconsistent with this act do not apply to a grower, processor, secure transporter, provisioning center, or safety compliance facility operating in compliance with this act:

(a) The business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(b) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(c) 1931 PA 327, MCL 450.98 to 450.192.

(d) The Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(e) The Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200.

(f) 1907 PA 101, MCL 445.1 to 445.5.

(g) 1913 PA 164, MCL 449.101 to 449.106.

(h) The uniform partnership act, 1917 PA 72, MCL 449.1 to 449.48.

Sec. 203. A registered qualifying patient or registered primary caregiver is not subject to criminal prosecution or sanctions for purchasing marihuana from a provisioning center if the quantity purchased is within the limits established under the Michigan medical marihuana act. A registered primary caregiver is not subject to criminal prosecution or sanctions for any transfer of 2.5 ounces or less of marihuana to a safety compliance facility for testing.

Sec. 204. This act does not limit the medical purpose defense provided in section 8 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26428, to any prosecution involving marihuana.

Sec. 205. (1) A marihuana facility shall not operate in a municipality unless the municipality has adopted an ordinance that authorizes that type of facility. A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities. A municipality shall provide the following information to the board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:

(a) A copy of the local ordinance that authorizes the marihuana facility.

(b) A copy of any zoning regulations that apply to the proposed marihuana facility within the municipality.

(c) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan medical marihuana act.

(2) The board may consider the information provided under subsection (1) in the application process. However, the municipality's failure to provide information to the board shall not be used against the applicant.

(3) A municipal ordinance may establish an annual, nonrefundable fee of not more than $5,000.00 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.

(4) Information a municipality obtains from an applicant related to licensure under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 206. The department, in consultation with the board, shall promulgate rules and emergency rules as necessary to implement, administer, and enforce this act. The rules shall ensure the safety, security, and integrity of the operation of marihuana facilities, and shall include rules to do the following:

(a) Set appropriate standards for marihuana facilities and associated equipment.

(b) Subject to section 408, establish minimum levels of insurance that licensees must maintain.

(c) Establish operating regulations for each category of license to ensure the health, safety, and security of the public and the integrity of marihuana facility operations.

(d) Establish qualifications and restrictions for persons participating in or involved with operating marihuana facilities.

(e) Establish testing standards, procedures, and requirements for marihuana sold through provisioning centers.

(f) Provide for the levy and collection of fines for a violation of this act or rules.

(g) Prescribe use of the statewide monitoring system to track all marihuana transfers, as provided in the marihuana tracking act and this act and provide for a funding mechanism to support the system.

(h) Establish quality control standards, procedures, and requirements for marihuana facilities.

(i) Establish chain of custody standards, procedures, and requirements for marihuana facilities.

(j) Establish standards, procedures, and requirements for waste product disposal and storage by marihuana facilities.

(k) Establish chemical storage standards, procedures, and requirements for marihuana facilities.

(*l*) Establish standards, procedures, and requirements for securely and safely transporting marihuana between marihuana facilities.

(m) Establish standards, procedures, and requirements for the storage of marihuana by marihuana facilities.

(n) Establish labeling and packaging standards, procedures, and requirements for marihuana sold or transferred through provisioning centers, including a prohibition on labeling or packaging that is intended to appeal to or has the effect of appealing to minors.

(o) Establish daily purchasing limits at provisioning centers for registered qualifying patients and registered primary caregivers to ensure compliance with the Michigan medical marihuana act.

(p) Establish marketing and advertising restrictions for marihuana products and marihuana facilities.

(q) Establish maximum tetrahydrocannabinol levels for marihuana-infused products sold or transferred through provisioning centers.

(r) Establish health standards to ensure the safe preparation of products containing marihuana that are intended for human consumption in a manner other than smoke inhalation.

(s) Establish restrictions on edible marihuana-infused products to prohibit shapes that would appeal to minors.

Sec. 207. A licensee shall adopt and use a third-party inventory control and tracking system that is capable of interfacing with the statewide monitoring system to allow the licensee to enter or access information in the statewide monitoring system as required under this act and rules. The third-party inventory control and tracking system must

have all of the following capabilities necessary for the licensee to comply with the requirements applicable to the licensee's license type:

(a) Tracking all marihuana plants, products, packages, patient and primary caregiver purchase totals, waste, transfers, conversions, sales, and returns that are linked to unique identification numbers.

(b) Tracking lot and batch information throughout the entire chain of custody.

(c) Tracking all products, conversions, and derivatives throughout the entire chain of custody.

(d) Tracking marihuana plant, batch, and product destruction.

(e) Tracking transportation of product.

(f) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:

(*i*) Sold product.

(*ii*) Product inventory that is finished and available for sale.

(*iii*) Product that is in the process of transfer.

(*iv*) Product being processed into another form.

(*v*) Postharvest raw product, such as product that is in the drying, trimming, or curing process.

(g) Reporting and tracking loss, theft, or diversion of product containing marihuana.

(h) Reporting and tracking all inventory discrepancies.

(i) Reporting and tracking adverse patient responses or dose-related efficacy issues.

(j) Reporting and tracking all sales and refunds.

(k) Electronically receiving and transmitting information as required under this act, the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, and the marihuana tracking act.

(*l*) Receiving testing results electronically from a safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.

(m) Identifying test results that may have been altered.

(n) Providing the licensee with access to information in the tracking system that is necessary to verify that the licensee is carrying out the marihuana transactions authorized under the licensee's license in accordance with this act.

(o) Providing information to cross-check that product sales are made to a registered qualifying patient or a registered primary caregiver on behalf of a registered qualifying patient and that the product received the required testing.

(p) Providing the department and state agencies with access to information in the database that they are authorized to access.

(q) Providing law enforcement agencies with access to only the information in the database that is necessary to verify that an individual possesses a valid and current registry identification card.

(r) Providing licensees with access only to the information in the system that they are required to receive before a sale, transfer, transport, or other activity authorized under a license issued under this act.

(s) Securing the confidentiality of information in the database by preventing access by a person who is not authorized to access the statewide monitoring system or is not authorized to access the particular information.

(t) Providing analytics to the department regarding key performance indicators such as the following:

(*i*) Total daily sales.

(*ii*) Total marihuana plants in production.

(*iii*) Total marihuana plants destroyed.

(*iv*) Total inventory adjustments.

Sec. 208. A marihuana facility and all articles of property in that facility are subject to examination at any time by a local police agency or the department of state police.

PART 3. MEDICAL MARIHUANA LICENSING BOARD

Sec. 301. (1) The medical marihuana licensing board is created within the department of licensing and regulatory affairs.

(2) The board consists of 5 members who are residents of this state, not more than 3 of whom are members of the same political party. The governor shall appoint the members. One of the members shall be appointed from 3 nominees submitted by the senate majority leader and 1 from 3 nominees submitted by the speaker of the house. The governor shall designate 1 of the members as chairperson.

(3) The members shall be appointed for terms of 4 years, except, of those who are first appointed, 1 member shall be appointed for a term of 2 years and 2 members shall be appointed for a term of 3 years. A member's term expires on December 31 of the last year of the member's term. If a vacancy occurs, the governor shall appoint a successor to fill the unexpired term in the manner of the original appointment.

(4) Each member of the board shall be reimbursed for all actual and necessary expenses and disbursements incurred in carrying out official duties.

(5) A board member shall not hold any other public office for which he or she receives compensation other than necessary travel or other incidental expenses.

(6) A person who is not of good moral character or who has been indicted for, charged with, or convicted of, pled guilty or nolo contendere to, or forfeited bail concerning any felony or a misdemeanor involving a controlled substance violation, theft, dishonesty, or fraud under the laws of this state, any other state, or the United States or a local ordinance in any state involving a controlled substance violation, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state is not eligible to serve on the board.

(7) The governor may remove any member of the board for neglect of duty, misfeasance, malfeasance, nonfeasance, or any other just cause.

(8) The department in conjunction with the board shall employ an executive director and other personnel as necessary to assist the board in carrying out its duties. The executive director shall devote his or her full time to the duties of the office and shall not hold any other office or employment.

(9) The board shall not appoint or employ an individual if any of the following circumstances exist:

(a) During the 3 years immediately preceding appointment or employment, the individual held any direct or indirect interest in, or was employed by, a person who is licensed to operate under this act or under a corresponding license in another jurisdiction or a person with an application for an operating license pending before the board or in any other jurisdiction. The board shall not employ an individual who has a direct or indirect interest in a licensee or a marihuana facility.

(b) The individual or his or her spouse, parent, child, child's spouse, sibling, or spouse of a sibling has an application for a license pending before the board or is a member of the board of directors of, or an individual financially interested in, any licensee or marihuana facility.

(10) Each member of the board, the executive director, and each key employee as determined by the department shall file with the governor a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the member, executive director, and key employee and his or her spouse, if any, affirming that the member, executive director, and key employee are in compliance with subsection (9)(a) and (b). The financial disclosure statement shall be made under oath and filed at the time of employment and annually thereafter.

(11) Each employee of the board shall file with the board a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the employee and his or her spouse. This subsection does not apply to the executive director or a key employee.

(12) A member of the board, executive director, or key employee shall not hold any direct or indirect interest in, be employed by, or enter into a contract for services with an applicant, a board licensee, or a marihuana facility for a period of 4 years after the date his or her employment or membership on the board terminates. The department in consultation with the board shall define the term "direct or indirect interest" by rule.

(13) For 2 years after the date his or her employment with the board is terminated, an employee of the board shall not acquire any direct or indirect interest in, be employed by, or enter into a contract for services with any applicant, licensee, or marihuana facility.

(14) For 2 years after the termination of his or her office or employment with the board, a board member or an individual employed by the board shall not represent any person or party other than this state before or against the board.

(15) A business entity in which a former board member or employee or agent has an interest, or any partner, officer, or employee of the business entity, shall not make any appearance or represent a party that the former member, employee, or agent is prohibited from appearing for or representing. As used in this subsection, "business entity" means a corporation, limited liability company, partnership, limited liability partnership, association, trust, or other form of legal entity.

Sec. 302. The board has general responsibility for implementing this act. The board has the powers and duties specified in this act and all other powers necessary and proper to fully and effectively implement and administer this act for the purpose of licensing, regulating, and enforcing the licensing and regulation system established under this act for marihuana growth, processing, testing, and transporting. The board is subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The board's duties include all of the following:

(a) Granting or denying each application for a state operating license within a reasonable time.

(b) Deciding all license applications in reasonable order.

(c) Conducting its public meetings in compliance with the open meetings act, 1976 PA 267, MCL 15.231 to 15.246.

(d) Consulting with the department in promulgating rules and emergency rules as necessary to implement, administer, and enforce this act. The board shall not promulgate a rule establishing a limit on the number or type of marihuana facility licenses that may be granted.

(e) Implementing and collecting the application fee described in section 401 and, in conjunction with the department of treasury, the tax described in section 601 and regulatory assessment described in section 603.

(f) Providing for the levy and collection of fines for a violation of this act or rules.

(g) Providing oversight of a marihuana facility through the board's inspectors, agents, and auditors and through the state police or attorney general for the purpose of certifying the revenue, receiving complaints from the public, or conducting investigations into the operation of the marihuana facility as the board considers necessary and proper to ensure compliance with this act and rules and to protect and promote the overall safety, security, and integrity of the operation of a marihuana facility.

(h) Providing oversight of marihuana facilities to ensure that marihuana-infused products meet health and safety standards that protect the public to a degree comparable to state and federal standards applicable to similar food and drugs.

(i) Reviewing and ruling on any complaint by a licensee regarding any investigative procedures of this state that are believed to be unnecessarily disruptive of marihuana facility operations. The need to inspect and investigate is presumed at all times. The board may delegate authority to hear, review, or rule on licensee complaints to a subcommittee of the board. To prevail on the complaint, a licensee must establish by a preponderance of the evidence that the procedures unreasonably disrupted its marihuana facility operations.

(j) Holding at least 2 public meetings each year. Upon 72 hours' written notice to each member, the chairperson or any 2 board members may call a special meeting. Three members of the board constitute a quorum, including when making determinations on an application for a license. Three votes are required in support of final determinations of the board on applications for licenses and all other licensing determinations, except that 4 votes are required in support of a determination to suspend or revoke a license. The board shall keep a complete and accurate record of all of its meetings and hearings. Upon order of the board, 1 of the board members or a hearing officer designated by the board may conduct any hearing provided for under this act or by rules and may recommend findings and decisions to the board. The board member or hearing officer conducting the hearing has all powers and rights regarding the conduct of hearings granted to the board under this act. The record made at the time of the hearing shall be reviewed by the board or a majority of the board, and the findings and decision of the majority of the board are the order of the board in the case.

(k) Maintaining records that are separate and distinct from the records of any other state board. The records shall be made available for public inspection subject to the limitations of this act and shall accurately reflect all board proceedings.

(*l*) Reviewing the patterns of marihuana transfers by the licensees under this act as recorded in a statewide database established for use in administering and enforcing this act and making recommendations to the governor and the legislature in a written annual report to the governor and the legislature and additional reports that the governor requests. The annual report shall be submitted by April 15 of each year and shall include the report required under section 702, a statement of receipts and disbursements by the board, the actions taken by the board, and any additional information and recommendations that the board considers appropriate or that the governor requests.

(m) Except as otherwise provided in this act, all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board are subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except for the following:

(*i*) Unless presented during a public hearing or requested by the licensee or applicant who is the sole subject of the data, all of the information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the board related to background investigation of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees or applicants.

(*ii*) All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board that have been received from another jurisdiction or local, state, or federal agency under a promise of confidentiality or if the release of the information is otherwise barred by the statutes, rules, or regulations of that jurisdiction or agency or by an intergovernmental agreement.

(*iii*) All information in the statewide monitoring system.

Sec. 303. (1) The board has jurisdiction over the operation of all marihuana facilities. The board has all powers necessary and proper to fully and effectively oversee the operation of marihuana facilities, including the authority to do all of the following:

(a) Investigate applicants for state operating licenses, determine the eligibility for licenses, and grant licenses to applicants in accordance with this act and the rules.

(b) Investigate all individuals employed by marihuana facilities.

(c) At any time, through its investigators, agents, auditors, or the state police, without a warrant and without notice to the licensee, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or noncompliance with this act or rules is likely to be found and consistent with constitutional limitations, for the following purposes:

(*i*) To inspect and examine all premises of marihuana facilities.

(*ii*) To inspect, examine, and audit relevant records of the licensee and, if the licensee fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.

(*iii*) To inspect the person, and inspect or examine personal effects present in a marihuana facility, of any holder of a state operating license while that person is present in a marihuana facility.

(*iv*) To investigate alleged violations of this act or rules.

(d) Investigate alleged violations of this act or rules and take appropriate disciplinary action against a licensee.

(e) Consult with the department in adopting rules to establish appropriate standards for marihuana facilities and associated equipment.

(f) Require all relevant records of licensees, including financial or other statements, to be kept on the premises authorized for operation of the marihuana facility of the licensee or in the manner prescribed by the board.

(g) Require that each licensee of a marihuana facility submit to the board a list of the stockholders or other persons having a 1% or greater beneficial interest in the facility in addition to any other information the board considers necessary to effectively administer this act and rules, orders, and final decisions made under this act.

(h) Eject, or exclude or authorize the ejection or exclusion of, an individual from a marihuana facility if the individual violates this act, rules, or final orders of the board. However, the propriety of the ejection or exclusion is subject to a subsequent hearing by the board.

(i) Conduct periodic audits of marihuana facilities licensed under this act.

(j) Consult with the department as to appropriate minimum levels of insurance for licensees in addition to the minimum established under section 408 for liability insurance.

(k) Delegate the execution of any of its powers that are not specifically and exclusively reserved to the board under this act for the purpose of administering and enforcing this act and rules.

(*l*) Take disciplinary action as the board considers appropriate to prevent practices that violate this act and rules.

(m) Review a licensee if that licensee is under review or the subject of discipline by a regulatory body in any other jurisdiction for a violation of a controlled substance or marihuana law or regulation in that jurisdiction.

(n) Take any other reasonable or appropriate action to enforce this act and rules.

(2) The board may seek and shall receive the cooperation and assistance of the department of state police in conducting background investigations of applicants and in fulfilling its responsibilities under this act. The department of state police may recover its costs of cooperation under this subsection.

Sec. 305. (1) By January 31 of each year, each member of the board shall prepare and file with the governor's office and the board a disclosure form in which the member does all of the following:

(a) Affirms that the member or the member's spouse, parent, child, or child's spouse is not a member of the board of directors of, financially interested in, or employed by a licensee or applicant.

(b) Affirms that the member continues to meet any other criteria for board membership under this act or the rules promulgated by the board.

(c) Discloses any legal or beneficial interests in any real property that is or that may be directly or indirectly involved with operations authorized by this act.

(d) Discloses any other information as may be required to ensure that the integrity of the board and its work is maintained.

(2) By January 31 of each year, each employee of the board shall prepare and file with the board an employee disclosure form in which the employee does all of the following:

(a) Affirms the absence of financial interests prohibited by this act.

(b) Discloses any legal or beneficial interests in any real property that is or that may be directly or indirectly involved with operations authorized by this act.

(c) Discloses whether the employee or the employee's spouse, parent, child, or child's spouse is financially interested in or employed by a licensee or an applicant for a license under this act.

(d) Discloses such other matters as may be required to ensure that the integrity of the board and its work is maintained.

(3) A member, employee, or agent of the board who becomes aware that the member, employee, or agent of the board or his or her spouse, parent, or child is a member of the board of directors of, financially interested in, or employed by a licensee or an applicant shall immediately provide detailed written notice thereof to the chairperson.

(4) A member, employee, or agent of the board who within the previous 10 years has been indicted for, charged with, or convicted of, pled guilty or nolo contendere to, or forfeited bail concerning a misdemeanor involving controlled substances, dishonesty, theft, or fraud or a local ordinance in any state involving controlled substances, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state, or a felony under Michigan law, the laws of any other state, or the laws of the United States or any other jurisdiction shall immediately provide detailed written notice of the conviction or charge to the chairperson.

(5) Any member, employee, or agent of the board who is negotiating for, or acquires by any means, any interest in any person who is a licensee or an applicant, or any person affiliated with such a person, shall immediately provide written notice of the details of the interest to the chairperson. The member, employee, or agent of the board shall not act on behalf of the board with respect to that person.

(6) A member, employee, or agent of the board shall not enter into any negotiations for employment with any person or affiliate of any person who is a licensee or an applicant and shall immediately provide written notice of the details of any such negotiations or discussions in progress to the chairperson. The member, employee, or agent of the board shall not take action on behalf of the board with respect to that person.

(7) Any member, employee, or agent of the board who receives an invitation, written or oral, to initiate a discussion concerning employment or the possibility of employment with a person or affiliate of a person who is a licensee or an applicant shall immediately report that he or she received the invitation to the chairperson. The member, employee, or agent of the board shall not take action on behalf of the board with respect to the person.

(8) A licensee or applicant shall not knowingly initiate a negotiation for or discussion of employment with a member, employee, or agent of the board. A licensee or applicant who initiates a negotiation or discussion about employment shall immediately provide written notice of the details of the negotiation or discussion to the chairperson as soon as he or she becomes aware that the negotiation or discussion has been initiated with a member, employee, or agent of the board.

(9) A member, employee, or agent of the board, or former member, employee, or agent of the board, shall not disseminate or otherwise disclose any material or information in the possession of the board that the board considers confidential unless specifically authorized to do so by the chairperson or the board.

(10) A member, employee, or agent of the board or a parent, spouse, sibling, spouse of a sibling, child, or spouse of a child of a member, employee, or agent of the board shall not accept any gift, gratuity, compensation, travel, lodging, or anything of value, directly or indirectly, from any licensee or any applicant or affiliate or representative of a licensee or applicant, unless the acceptance conforms to a written policy or directive that is issued by the chairperson or the board. Any member, employee, or agent of the board who is offered or receives any gift, gratuity, compensation, travel, lodging, or anything of value, directly or indirectly, from any licensee or any applicant or affiliate or representative of an applicant or licensee shall immediately provide written notification of the details to the chairperson.

(11) A licensee or applicant, or an affiliate or representative of an applicant or licensee, shall not, directly or indirectly, give or offer to give any gift, gratuity, compensation, travel, lodging, or anything of value to any member, employee, or agent of the board that the member, employee, or agent of the board is prohibited from accepting under subsection (10).

(12) A member, employee, or agent of the board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the chairperson in writing of the details of any incident or circumstances that would present the existence of a conflict of interest with respect to performing board-related work or duties.

(13) A member, employee, or agent of the board who is approached and offered a bribe as described in section 118 of the Michigan penal code, 1931 PA 328, MCL 750.118, or this act shall immediately provide written account of the details of the incident to the chairperson and to a law enforcement officer of a law enforcement agency having jurisdiction.

(14) A member, employee, or agent of the board shall disclose his or her past involvement with any marihuana enterprise in the past 5 years and shall not engage in political activity or politically related activity during the duration of his or her appointment or employment.

(15) A former member, employee, or agent of the board may appear before the board as a fact witness about matters or actions handled by the member, employee, or agent during his or her tenure as a member, employee, or agent of the board. The member, employee, or agent of the board shall not receive compensation for such an appearance other than a standard witness fee and reimbursement for travel expenses as established by statute or court rule.

(16) A licensee or applicant or any affiliate or representative of an applicant or licensee shall not engage in ex parte communications with a member of the board. A member of the board shall not engage in any ex parte communications with a licensee or an applicant or with any affiliate or representative of an applicant or licensee.

(17) Any board member, licensee, or applicant or affiliate or representative of a board member, licensee, or applicant who receives any ex parte communication in violation of subsection (16), or who is aware of an attempted communication in violation of subsection (16), shall immediately report details of the communication or attempted communication in writing to the chairperson.

(18) Any member of the board who receives an ex parte communication in an attempt to influence that member's official action shall disclose the source and content of the communication to the chairperson. The chairperson may investigate or initiate an investigation of the matter with the assistance of the attorney general and state police to determine if the communication violates subsection (16) or subsection (17) or other state law. The disclosure under this section and the investigation are confidential. Following an investigation, the chairperson shall advise the governor or the board, or both, of the results of the investigation and may recommend action as the chairperson considers appropriate. If the chairperson receives such an ex parte communication, he or she shall report the communication to the governor's office for appropriate action.

(19) A new or current employee or agent of the board shall obtain written permission from the executive director before continuing outside employment held at the time the employee begins to work for the board. Permission shall be denied, or permission previously granted shall be revoked, if the executive director considers the nature of the work to create a possible conflict of interest or if it would otherwise interfere with the duties of the employee or agent for the board.

(20) An employee or agent of the board granted permission for outside employment shall not conduct any business or perform any activities, including solicitation, related to outside employment on premises used by the board or during the employee's working hours for the board.

(21) The chairperson shall report any action he or she has taken or proposes to take under this section with respect to an employee or agent or former employee or former agent to the board at the next meeting of the board. The board may direct the executive director to take additional or different action.

(22) Except as allowed under the Michigan medical marihuana act, a member, employee, or agent of the board shall not enter into any personal transaction involving marihuana with a licensee or applicant.

(23) If a licensee or applicant, or an affiliate or representative of a licensee or applicant, violates this section, the board may deny a license application, revoke or suspend a license, or take other disciplinary action as provided in section 407.

(24) Violation of this section by a member of the board may result in disqualification or constitute cause for removal under section 301(7) or other disciplinary action as recommended by the board to the governor.

(25) A violation of this section by an employee or agent of the board need not result in termination of employment if the board determines that the conduct involved does not violate the purpose of this act. However, all of the following apply:

(a) If, after being offered employment or beginning employment with the board, the employee or agent intentionally acquires a financial interest in a licensee or an applicant, or an affiliate or representative of a licensee or applicant, the offer or employment with the board shall be terminated.

(b) If a financial interest in a licensee or an applicant, or an affiliate or representative of a licensee or applicant, is acquired by an employee or agent that has been offered employment with the board, an employee of the board, or the employee's or agent's spouse, parent, or child, through no intentional action of the employee or agent, the individual shall have up to 30 days to divest or terminate the financial interest. Employment may be terminated if the interest has not been divested after 30 days.

(c) Employment shall be terminated if the employee or agent is a spouse, parent, child, or spouse of a child of a board member.

(26) Violation of this section does not create a civil cause of action.

(27) As used in this section:

(a) "Outside employment", in addition to employment by a third party, includes, but is not limited to, the following:

(*i*) Operation of a proprietorship.

(*ii*) Participation in a partnership or group business enterprise.

(*iii*) Performance as a director or corporate officer of any for-profit or nonprofit corporation or banking or credit institution.

(*iv*) Performance as a manager of a limited liability company.

(b) "Political activity" or "politically related activity" includes all of the following:

(*i*) Using his or her official authority or influence for the purpose of interfering with or affecting the result of an election.

(*ii*) Knowingly soliciting, accepting, or receiving a political contribution from any person.

(*iii*) Running for the nomination or as a candidate for election to a partisan political office.

(*iv*) Knowingly soliciting or discouraging the participation in any political activity of any person who is either of the following:

(A) Applying for any compensation, grant, contract, ruling, license, permit, or certificate pending before the board.

(B) The subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the board.

PART 4. LICENSING

Sec. 401. (1) Beginning 360 days after the effective date of this act, a person may apply to the board for state operating licenses in the categories of class A, B, or C grower; processor; provisioning center; secure transporter; and safety compliance facility as provided in this act. The application shall be made under oath on a form provided by the board and shall contain information as prescribed by the board, including, but not limited to, all of the following:

(a) The name, business address, business telephone number, social security number, and, if applicable, federal tax identification number of the applicant.

(b) The identity of every person having any ownership interest in the applicant with respect to which the license is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; if a corporation, the names and addresses of all shareholders, officers, and directors; if a partnership or limited liability partnership, the names and addresses of all partners; if a limited partnership or limited liability limited partnership, the names of all partners, both general and limited; or if a limited liability company, the names and addresses of all members and managers.

(c) An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marihuana, including, if applicable, the state of incorporation or registration, in which an applicant or, if the applicant is an individual, the applicant's spouse, parent, or child has any equity interest. If an applicant is a corporation, partnership, or other business entity, the applicant shall identify any other corporation, partnership, or other business entity that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marihuana in which it has any equity interest, including, if applicable, the state of incorporation or registration. An applicant may comply with this subdivision by filing a copy of the applicant's registration with the Securities and Exchange Commission if the registration contains the information required by this subdivision.

(d) Whether an applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled-substance-related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.

(e) Whether an applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.

(f) Whether an applicant has filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.

(g) A statement listing the names and titles of all public officials or officers of any unit of government, and the spouses, parents, and children of those public officials or officers, who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of or hold any debt instrument issued by, or hold or have any interest in any contractual or service relationship with an applicant. As used in this subdivision, public official or officer does not include a person who would have to be listed solely because of his or her state or federal military service.

(h) A description of the type of marihuana facility; anticipated or actual number of employees; and projected or actual gross receipts.

(i) Financial information in the manner and form prescribed by the board.

(j) A paper copy or electronic posting website reference for the ordinance or zoning restriction that the municipality adopted to authorize or restrict operation of 1 or more marihuana facilities in the municipality.

(k) A copy of the notice informing the municipality by registered mail that the applicant has applied for a license under this act. The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicant submits the application for a license to the board.

(*l*) Any other information the department requires by rule.

(2) The board shall use information provided on the application as a basis to conduct a thorough background investigation on the applicant. A false application is cause for the board to deny a license. The board shall not consider an incomplete application but shall, within a reasonable time, return the application to the applicant with notification of the deficiency and instructions for submitting a corrected application. Information the board obtains from the background investigation is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) An applicant must provide written consent to the inspections, examinations, searches, and seizures provided for in section 303(1)(c)(*i*) to (*iv*) and to disclosure to the board and its agents of otherwise confidential records, including tax records held by any federal, state, or local agency, or credit bureau or financial institution, while applying for or holding a license. Information the board receives under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) An applicant must certify that the applicant does not have an interest in any other state operating license that is prohibited under this act.

(5) A nonrefundable application fee must be paid at the time of filing to defray the costs associated with the background investigation conducted by the board. The department in consultation with the board shall set the amount of the application fee for each category and class of license by rule. If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount to the board. All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board in the course of its review or investigation of an application for a license under this act shall be disclosed only in accordance with this act. The information, records, interviews, reports, statements, memoranda, or other data are not admissible as evidence or discoverable in any action of any kind in any court or before any tribunal, board, agency, or person, except for any action considered necessary by the board.

(6) By 10 days after the date the applicant submits an application to the board, the applicant shall notify the municipality by registered mail that it has applied for a license under this act.

Sec. 402. (1) The board shall issue a license to an applicant who submits a complete application and pays both the nonrefundable application fee required under section 401(5) and the regulatory assessment established by the board for the first year of operation, if the board determines that the applicant is qualified to receive a license under this act.

(2) An applicant is ineligible to receive a license if any of the following circumstances exist:

(a) The applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.

(b) Within the past 5 years the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.

(c) The applicant has knowingly submitted an application for a license under this act that contains false information.

(d) The applicant is a member of the board.

(e) The applicant fails to demonstrate the applicant's ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility.

(f) The applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

(g) The applicant, if an individual, has been a resident of this state for less than a continuous 2-year period immediately preceding the date of filing the application. The requirements in this subdivision do not apply after June 30, 2018.

(h) The board determines that the applicant is not in compliance with section 205(1).

(i) The applicant fails to meet other criteria established by rule.

(3) In determining whether to grant a license to an applicant, the board may also consider all of the following:

(a) The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a marihuana facility of the applicant and of any other person that either:

(*i*) Controls, directly or indirectly, the applicant.

(*ii*) Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.

(b) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.

(c) The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.

(d) Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise.

(e) Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past 7 years.

(f) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.

(g) Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.

(h) Whether at the time of application the applicant is a defendant in litigation involving its business practices.

(i) Whether the applicant meets other standards in rules applicable to the license category.

(4) Each applicant shall submit with its application, on forms provided by the board, a passport quality photograph and 1 set of fingerprints for each person having any ownership interest in the marihuana facility and each person who is an officer, director, or managerial employee of the applicant. The department may designate an entity or agent to collect the fingerprints, and the applicant is responsible for the cost associated with the fingerprint collection.

(5) The board shall review all applications for licenses and shall inform each applicant of the board's decision.

(6) A license shall be issued for a 1-year period and is renewable annually. Except as otherwise provided in this act, the board shall renew a license if all of the following requirements are met:

(a) The licensee applies to the board on a renewal form provided by the board that requires information prescribed in rules.

(b) The application is received by the board on or before the expiration date of the current license.

(c) The licensee pays the regulatory assessment under section 603.

(d) The licensee meets the requirements of this act and any other renewal requirements set forth in rules.

(7) The department shall notify the licensee by mail or electronic mail at the last known address on file with the board advising of the time, procedure, and regulatory assessment under section 603. The failure of the licensee to receive notice under this subsection does not relieve the licensee of the responsibility for renewing the license.

(8) If a license renewal application is not submitted by the license expiration date, the license may be renewed within 60 days after its expiration date upon application, payment of the regulatory assessment under section 603, and satisfaction of any renewal requirement and late fee set forth in rules. The licensee may continue to operate during the 60 days after the license expiration date if the license is renewed by the end of the 60-day period.

(9) License expiration does not terminate the board's authority to impose sanctions on a licensee whose license has expired.

(10) In its decision on an application for renewal, the board shall consider any specific written input it receives from an individual or entity within the local unit of government in which the applicant for renewal is located.

(11) A licensee must consent in writing to inspections, examinations, searches, and seizures that are permitted under this act and must provide a handwriting exemplar, fingerprints, photographs, and information as authorized in this act or by rules.

(12) An applicant or licensee has a continuing duty to provide information requested by the board and to cooperate in any investigation, inquiry, or hearing conducted by the board.

Sec. 403. If the board identifies a deficiency in an application, the board shall provide the applicant with a reasonable period of time to correct the deficiency.

Sec. 404. (1) The board shall issue a license only in the name of the true party of interest.

(2) For the following true parties of interest, information concerning the indicated individuals must be included in the disclosures required of an applicant or licensee:

(a) For an individual or sole proprietorship: the proprietor and spouse.

(b) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.

(c) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.

(d) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.

(e) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(f) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(3) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's prebonus annual compensation or if the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

Sec. 405. Subject to the laws of this state, before hiring a prospective employee, the holder of a license shall conduct a background check of the prospective employee. If the background check indicates a pending charge or conviction within the past 10 years for a controlled substance-related felony, a licensee shall not hire the prospective employee without written permission of the board.

Sec. 406. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the board's approval before a license is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest of more than 1% in a license without prior board approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the board.

Sec. 407. (1) If an applicant or licensee fails to comply with this act or rules, if a licensee fails to comply with the marihuana tracking act, if a licensee no longer meets the eligibility requirements for a license under this act, or if an applicant or licensee fails to provide information the board requests to assist in any investigation, inquiry, or board hearing, the board may deny, suspend, revoke, or restrict a license. The board may suspend, revoke, or restrict a license and require the removal of a licensee or an employee of a licensee for a violation of this act, rules, the marihuana tracking act, or any ordinance adopted under section 205. The board may impose civil fines of up to $5,000.00 against an individual and up to $10,000.00 or an amount equal to the daily gross receipts, whichever is greater, against a licensee for each violation of this act, rules, or an order of the board. Assessment of a civil fine under this subsection is not a bar to the investigation, arrest, charging, or prosecution of an individual for any other violation of this act and is not grounds to suppress evidence in any criminal prosecution that arises under this act or any other law of this state.

(2) The board shall comply with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, when denying, revoking, suspending, or restricting a license or imposing a fine. The board may suspend a license without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marihuana facility's operation. If the board suspends a license under this subsection without notice or hearing, a prompt postsuspension hearing must be held to determine if the suspension should remain in effect. The suspension may remain in effect until the board determines that the cause for suspension has been abated. The board may revoke the license or approve a transfer or sale of the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard.

(3) After denying an application for a license, the board shall, upon request, provide a public investigative hearing at which the applicant is given the opportunity to present testimony and evidence to establish its suitability for a license. Other testimony and evidence may be presented at the hearing, but the board's decision must be based on the whole record before the board and is not limited to testimony and evidence submitted at the public investigative hearing.

(4) Except for license applicants who may be granted a hearing at the discretion of the board under subsection (3), any party aggrieved by an action of the board suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, shall be given a hearing before the board upon request. A request for a hearing must be made to the board in writing within 21 days after service of notice of the action of the board. Notice of the action of the board must be served either by personal delivery or by certified mail, postage prepaid, to the aggrieved party. Notice served by certified mail is considered complete on the business day following the date of the mailing.

(5) The board may conduct investigative and contested case hearings; issue subpoenas for the attendance of witnesses; issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents; and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the board under this act. The executive director or his or her designee may issue subpoenas and administer oaths and affirmations to witnesses.

Sec. 408. (1) Before the board grants or renews any license under this act, the licensee or applicant shall file with the department proof of financial responsibility for liability for bodily injury to lawful users resulting from the manufacture, distribution, transportation, or sale of adulterated marihuana or adulterated marihuana-infused product in an amount not less than $100,000.00. The proof of financial responsibility may be in the form of cash, unencumbered securities, a liability insurance policy, or a constant value bond executed by a surety company authorized to do business in this state. As used in this section:

(a) "Adulterated marihuana" means a product sold as marihuana that contains any unintended substance or chemical or biological matter other than marihuana that causes adverse reaction after ingestion or consumption.

(b) "Bodily injury" does not include expected or intended effect or long-term adverse effect of smoking, ingestion, or consumption of marihuana or marihuana-infused product.

(2) An insured licensee shall not cancel liability insurance required under this section unless the licensee complies with both of the following:

(a) Gives 30 days' prior written notice to the department.

(b) Procures new proof of financial responsibility required under this section and delivers that proof to the department within 30 days after giving the department the notice under subdivision (a).

Sec. 409. A state operating license is a revocable privilege granted by this state and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the board's and municipality's approval before a license is transferred, sold, or purchased. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license. The attempted transfer, sale, or other conveyance of an interest in a license without prior board approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the board.

PART 5. LICENSEES

Sec. 501. (1) A grower license authorizes the grower to grow not more than the following number of marihuana plants under the indicated license class for each license the grower holds in that class:

(a) Class A – 500 marihuana plants.

(b) Class B – 1,000 marihuana plants.

(c) Class C – 1,500 marihuana plants.

(2) A grower license authorizes sale of marihuana seeds or marihuana plants only to a grower by means of a secure transporter.

(3) A grower license authorizes sale of marihuana, other than seeds, only to a processor or provisioning center.

(4) A grower license authorizes the grower to transfer marihuana only by means of a secure transporter.

(5) To be eligible for a grower license, the applicant and each investor in the grower must not have an interest in a secure transporter or safety compliance facility.

(6) A grower shall comply with all of the following:

(a) Until December 31, 2021, have, or have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.

(b) While holding a license as a grower, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(c) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(7) A grower license does not authorize the grower to operate in an area unless the area is zoned for industrial or agricultural uses or is unzoned and otherwise meets the requirements established in section 205(1).

Sec. 502. (1) A processor license authorizes purchase of marihuana only from a grower and sale of marihuana-infused products or marihuana only to a provisioning center.

(2) A processor license authorizes the processor to transfer marihuana only by means of a secure transporter.

(3) To be eligible for a processor license, the applicant and each investor in the processor must not have an interest in a secure transporter or safety compliance facility.

(4) A processor shall comply with all of the following:

(a) Until December 31, 2021, have, or have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.

(b) While holding a license as a processor, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(c) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

Sec. 503. (1) A secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver.

(2) To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter must not have an interest in a grower, processor, provisioning center, or safety compliance facility and must not be a registered qualifying patient or a registered primary caregiver.

(3) A secure transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(4) A secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(c) Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(d) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(e) The marihuana shall be transported in 1 or more sealed containers and not be accessible while in transit.

(f) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(5) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with this act.

Sec. 504. (1) A provisioning center license authorizes the purchase or transfer of marihuana only from a grower or processor and sale or transfer to only a registered qualifying patient or registered primary caregiver. All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.

(2) A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

(3) To be eligible for a provisioning center license, the applicant and each investor in the provisioning center must not have an interest in a secure transporter or safety compliance facility.

(4) A provisioning center shall comply with all of the following:

(a) Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.

(b) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(c) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the medical marihuana licensing board under this act.

(d) Not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

(e) Not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

Sec. 505. (1) In addition to transfer and testing authorized in section 203, a safety compliance facility license authorizes the facility to receive marihuana from, test marihuana for, and return marihuana to only a marihuana facility.

(2) A safety compliance facility must be accredited by an entity approved by the board by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The board may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) To be eligible for a safety compliance facility license, the applicant and each investor with any interest in the safety compliance facility must not have an interest in a grower, secure transporter, processor, or provisioning center.

(4) A safety compliance facility shall comply with all of the following:

(a) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.

(b) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.

(c) Perform tests that determine whether marihuana complies with the standards the board establishes for microbial and mycotoxin contents.

(d) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.

(e) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(f) Have a secured laboratory space that cannot be accessed by the general public.

(g) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.

PART 6. TAXES AND FEES

Sec. 601. (1) A tax is imposed on each provisioning center at the rate of 3% of the provisioning center's gross retail receipts. By 30 days after the end of the calendar quarter, a provisioning center shall remit the tax for the preceding calendar quarter to the department of treasury accompanied by a form prescribed by the department of treasury that shows the gross quarterly retail income of the provisioning center and the amount of tax due, and shall submit a copy of the form to the department. If a law authorizing the recreational or nonmedical use of marihuana in this state is enacted, this section does not apply beginning 90 days after the effective date of that law.

(2) The taxes imposed under this section shall be administered by the department of treasury in accordance with 1941 PA 122, MCL 205.1 to 205.31, and this act. In case of conflict between the provisions of 1941 PA 122, MCL 205.1 to 205.31, and this act, the provisions of this act prevail.

Sec. 602. (1) The medical marihuana excise fund is created in the state treasury.

(2) Except for the application fee under section 401, the regulatory assessment under section 603, and any local licensing fees, all money collected under section 601 and all other fees, fines, and charges, imposed under this act shall be deposited in the medical marihuana excise fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the medical marihuana excise fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The state treasurer shall be the administrator of the medical marihuana excise fund for auditing purposes.

(5) The money in the medical marihuana excise fund shall be allocated, upon appropriation, as follows:

(a) 25% to municipalities in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the municipality.

(b) 30% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county.

(c) 5% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county. Money allocated under this subdivision shall be used exclusively to support the county sheriffs and shall be in addition to and not in replacement of any other funding received by the county sheriffs.

(d) 30% to this state for the following:

(*i*) Until September 30, 2017, for deposit in the general fund of the state treasury.

(*ii*) Beginning October 1, 2017, for deposit in the first responder presumed coverage fund created in section 405 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.405.

(e) 5% to the Michigan commission on law enforcement standards for training local law enforcement officers.

(f) 5% to the department of state police.

Sec. 603. (1) A regulatory assessment is imposed on certain licensees as provided in this section. All of the following shall be included in establishing the total amount of the regulatory assessment established under this section:

(a) The department's costs to implement, administer, and enforce this act, except for the costs to process and investigate applications for licenses supported with the application fee described in section 401.

(b) Expenses of medical-marihuana-related legal services provided to the department by the department of attorney general.

(c) Expenses of medical-marihuana-related services provided to the department by the department of state police.

(d) Expenses of medical-marihuana-related services provided by the department of treasury.

(e) $500,000.00 to be allocated to the department for expenditures of the department for licensing substance use disorder programs.

(f) An amount equal to 5% of the sum of the amounts provided for under subdivisions (a) to (d) to be allocated to the department of health and human services for substance-abuse-related expenditures including, but not limited to, substance use disorder prevention, education, and treatment programs.

(g) Expenses related to the standardized field sobriety tests administered in enforcing the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(h) An amount sufficient to provide for the administrative costs of the Michigan commission on law enforcement standards.

(2) The regulatory assessment is in addition to the application fee described in section 401, the tax described in section 601, and any local licensing fees.

(3) The regulatory assessment shall be collected annually from licensed growers, processors, provisioning centers, and secure transporters. The regulatory assessment for a class A grower license shall not exceed $10,000.00.

(4) Beginning in the first year marihuana facilities are authorized to operate in this state, and annually thereafter, the department, in consultation with the board, shall establish the total regulatory assessment at an amount that is estimated to be sufficient to cover the actual costs and support the expenditures listed in subsection (1).

(5) On or before the date the licensee begins operating and annually thereafter, each grower, processor, provisioning center, and secure transporter shall pay to the state treasurer an amount determined by the department to reasonably reflect the licensee's share of the total regulatory assessment established under subsection (4).

Sec. 604. (1) The marihuana regulatory fund is created in the state treasury.

(2) The application fee collected under section 401 and the regulatory assessment collected under section 603 shall be deposited in the marihuana regulatory fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the marihuana regulatory fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the marihuana regulatory fund for auditing purposes.

(5) Except as provided in section 603(1)(d) and (e), the department shall expend money from the marihuana regulatory fund, upon appropriation, only for implementing, administering, and enforcing this act.

Sec. 605. The department may use any money appropriated to it from the marihuana registry fund created in section 6 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26426, for the purpose of funding the operations of the department and the board in the initial implementation and subsequent administration and enforcement of this act.

PART 7. REPORTS

Sec. 701. By 30 days after the end of each state fiscal year, each licensee shall transmit to the board and to the municipality financial statements of the licensee's total operations. The financial statements shall be reviewed by a certified public accountant in a manner and form prescribed by the board. The certified public accountant must be licensed in this state under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736. The compensation for the certified public accountant shall be paid directly by the licensee to the certified public accountant.

Sec. 702. The board shall submit with the annual report to the governor under section 302(k) and to the chairs of the legislative committees that govern issues related to marihuana facilities a report covering the previous year. The report shall include an account of the board actions, its financial position, results of operation under this act, and any recommendations for legislation that the board considers advisable.

PART 8. MARIHUANA ADVISORY PANEL

Sec. 801. (1) The marihuana advisory panel is created within the department.

(2) The marihuana advisory panel shall consist of 17 members, including the director of state police or his or her designee, the director of this state's department of health and human services or his or her designee, the director of the department of licensing and regulatory affairs or his or her designee, the attorney general or his or her designee, the director of the department of agriculture and rural development or his or her designee, and the following members appointed by the governor:

(a) One registered medical marihuana patient or medical marihuana primary caregiver.

(b) One representative of growers.

(c) One representative of processors.

(d) One representative of provisioning centers.

(e) One representative of safety compliance facilities.

(f) One representative of townships.

(g) One representative of cities and villages.

(h) One representative of counties.

(i) One representative of sheriffs.

(j) One representative of local police.

(k) One physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(*l*) One representative of a secure transporter.

(3) The members first appointed to the panel shall be appointed within 3 months after the effective date of this act and shall serve at the pleasure of the governor. Appointed members of the panel shall serve for terms of 3 years or until a successor is appointed, whichever is later.

(4) If a vacancy occurs on the advisory panel, the governor shall make an appointment for the unexpired term in the same manner as the original appointment.

(5) The first meeting of the panel shall be called by the director of the department or his or her designee within 1 month after the advisory panel is appointed. At the first meeting, the panel shall elect from among its members a chairperson and any other officers it considers necessary or appropriate. After the first meeting, the panel shall meet at least 2 times each year, or more frequently at the call of the chairperson.

(6) A majority of the members of the panel constitute a quorum for the transaction of business. A majority of the members present and serving are required for official action of the panel.

(7) The business that the panel performs shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A writing prepared, owned, used, in the possession of, or retained by the panel in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) Members of the panel shall serve without compensation. However, members of the panel may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the panel.

(10) The panel may make recommendations to the board concerning promulgation of rules and, as requested by the board or the department, the administration, implementation, and enforcement of this act and the marihuana tracking act.

(11) State departments and agencies shall cooperate with the panel and, upon request, provide it with meeting space and other necessary resources to assist it in the performance of its duties.

Enacting section 1. This act takes effect 90 days after the date it is enacted into law.

Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare.

Enacting section 3. This act does not take effect unless House Bill No. 4827 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved ----------

Governor

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Reps. Lyons, Goike, Bumstead, Yonker, Kelly, Pettalia, Callton, Pscholka, Potvin, Dillon, Irwin, Hoadley, Maturen, Singh, Sarah Roberts and Kosowski

ENROLLED HOUSE BILL No. 4210

AN ACT to amend 2008 IL 1, entitled "An initiation of Legislation to allow under state law the medical use of marihuana; to provide protections for the medical use of marihuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers; to impose a fee for registry application and renewal; to provide for the promulgation of rules; to provide for the administration of this act; to provide for enforcement of this act; to provide for affirmative defenses; and to provide for penalties for violations of this act," by amending the title and sections 3, 4, 6, and 7 (MCL 333.26423, 333.26424, 333.26426, and 333.26427), sections 3 and 4 as amended by 2012 PA 512 and section 6 as amended by 2012 PA 514, and by adding sections 4a and 4b.

The People of the State of Michigan enact:

TITLE

An initiation of Legislation to allow under state law the medical use of marihuana; to provide protections for the medical use of marihuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers; to impose a fee for registry application and renewal; to make an appropriation; to provide for the promulgation of rules; to provide for the administration of this act; to provide for enforcement of this act; to provide for affirmative defenses; and to provide for penalties for violations of this act.

3. Definitions.

Sec. 3. As used in this act:

(a) "Bona fide physician-patient relationship" means a treatment or counseling relationship between a physician and patient in which all of the following are present:

(1) The physician has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.

(2) The physician has created and maintained records of the patient's condition in accord with medically accepted standards.

(3) The physician has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marihuana as a treatment of the patient's debilitating medical condition.

(4) If the patient has given permission, the physician has notified the patient's primary care physician of the patient's debilitating medical condition and certification for the medical use of marihuana to treat that condition.

(b) "Debilitating medical condition" means 1 or more of the following:

(1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions.

(2) A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.

(3) Any other medical condition or its treatment approved by the department, as provided for in section 6(k).

(c) "Department" means the department of licensing and regulatory affairs.

(d) "Enclosed, locked facility" means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient or a person designated through the departmental registration process as the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:

(1) The vehicle is being used temporarily to transport living marihuana plants from 1 location to another with the intent to permanently retain those plants at the second location.

(2) An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong or the individual designated through the departmental registration process as the primary caregiver for the registered qualifying patient.

(e) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(f) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

(g) "Marihuana plant" means any plant of the species Cannabis sativa L.

(h) "Medical use of marihuana" means the acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, 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.

(i) "Physician" means an individual licensed as a physician under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(j) "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

(k) "Primary caregiver" or "caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(*l*) "Qualifying patient" or "patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(m) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.

(n) "Usable marihuana" means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

(o) "Usable marihuana equivalent" means the amount of usable marihuana in a marihuana-infused product that is calculated as provided in section 4(c).

(p) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.

(q) "Written certification" means a document signed by a physician, stating all of the following:

(1) The patient's debilitating medical condition.

(2) The physician has completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation.

(3) In the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

4. Protections for the Medical Use of Marihuana.

Sec. 4. (a) A qualifying patient who has been issued and possesses a registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marihuana in accordance with this act, provided that the qualifying patient possesses an amount of marihuana that does not exceed a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount. The privilege from arrest under this subsection applies only if the qualifying patient presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the qualifying patient.

(b) A primary caregiver who has been issued and possesses a registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act. The privilege from arrest under this subsection applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary caregiver. This subsection applies only if the primary caregiver possesses marihuana in forms and amounts that do not exceed any of the following:

(1) For each qualifying patient to whom he or she is connected through the department's registration process, a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents.

(2) For each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility.

(3) Any incidental amount of seeds, stalks, and unusable roots.

(c) For purposes of determining usable marihuana equivalency, the following shall be considered equivalent to 1 ounce of usable marihuana:

(1) 16 ounces of marihuana-infused product if in a solid form.

(2) 7 grams of marihuana-infused product if in a gaseous form.

(3) 36 fluid ounces of marihuana-infused product if in a liquid form.

(d) A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(e) There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marihuana in accordance with this act if the qualifying patient or primary caregiver complies with both of the following:

(1) Is in possession of a registry identification card.

(2) Is in possession of an amount of marihuana that does not exceed the amount allowed under this act. The presumption may be rebutted by evidence that conduct related to marihuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this act.

(f) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana. Any such compensation does not constitute the sale of controlled substances.

(g) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, or any other business or occupational or professional licensing board or bureau, solely for providing written certifications, in the course of a bona fide physician-patient relationship and after the physician has completed a full assessment of the qualifying patient's medical history, or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use

of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(h) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marihuana paraphernalia for purposes of a qualifying patient's medical use of marihuana.

(i) Any marihuana, marihuana paraphernalia, or licit property that is possessed, owned, or used in connection with the medical use of marihuana, as allowed under this act, or acts incidental to such use, shall not be seized or forfeited.

(j) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for being in the presence or vicinity of the medical use of marihuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marihuana.

(k) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana, shall have the same force and effect as a registry identification card issued by the department.

(*l*) Any registered qualifying patient or registered primary caregiver who sells marihuana to someone who is not allowed the medical use of marihuana under this act shall have his or her registry identification card revoked and is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both, in addition to any other penalties for the distribution of marihuana.

(m) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for manufacturing a marihuana-infused product if the person is any of the following:

(1) A registered qualifying patient, manufacturing for his or her own personal use.

(2) A registered primary caregiver, manufacturing for the use of a patient to whom he or she is connected through the department's registration process.

(n) A qualifying patient shall not transfer a marihuana-infused product or marihuana to any individual.

(o) A primary caregiver shall not transfer a marihuana-infused product to any individual who is not a qualifying patient to whom he or she is connected through the department's registration process.

Sec. 4a. (1) This section does not apply unless the medical marihuana facilities licensing act is enacted.

(2) A registered qualifying patient or registered primary caregiver shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for any of the following:

(a) Transferring or purchasing marihuana in an amount authorized by this act from a provisioning center licensed under the medical marihuana facilities licensing act.

(b) Transferring or selling marihuana seeds or seedlings to a grower licensed under the medical marihuana facilities licensing act.

(c) Transferring marihuana for testing to and from a safety compliance facility licensed under the medical marihuana facilities licensing act.

Sec. 4b. (1) Except as provided in subsections (2) to (4), a qualifying patient or primary caregiver shall not transport or possess a marihuana-infused product in or upon a motor vehicle.

(2) This section does not prohibit a qualifying patient from transporting or possessing a marihuana-infused product in or upon a motor vehicle if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the person from whom the marihuana-infused product was received, and date of receipt.

(3) This section does not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle if the marihuana-infused product is accompanied by an accurate marihuana transportation manifest and enclosed in a case carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is enclosed in a case and carried so as not to be readily accessible from the interior of the vehicle. The manifest form must state the

weight of each marihuana-infused product in ounces, name and address of the manufacturer, date of manufacture, destination name and address, date and time of departure, estimated date and time of arrival, and, if applicable, name and address of the person from whom the product was received and date of receipt.

(4) This section does not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle for the use of his or her child, spouse, or parent who is a qualifying patient if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the qualifying patient, and, if applicable, name of the person from whom the marihuana-infused product was received and date of receipt.

(5) For purposes of determining compliance with quantity limitations under section 4, there is a rebuttable presumption that the weight of a marihuana-infused product listed on its package label or on a marihuana transportation manifest is accurate.

(6) A qualifying patient or primary caregiver who violates this section is responsible for a civil fine of not more than $250.00.

6. Administering the Department's Rules.

Sec. 6. (a) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's rules:

(1) A written certification;

(2) Application or renewal fee;

(3) Name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) Name, address, and telephone number of the qualifying patient's physician;

(5) Name, address, and date of birth of the qualifying patient's primary caregiver, if any;

(6) Proof of Michigan residency. For the purposes of this subdivision, a person shall be considered to have proved legal residency in this state if any of the following apply:

(*i*) The person provides a copy of a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(*ii*) The person provides a copy of a valid Michigan voter registration.

(7) If the qualifying patient designates a primary caregiver, a designation as to whether the qualifying patient or primary caregiver will be allowed under state law to possess marihuana plants for the qualifying patient's medical use.

(b) The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marihuana to the qualifying patient and to his or her parent or legal guardian;

(2) The qualifying patient's parent or legal guardian submits a written certification from 2 physicians; and

(3) The qualifying patient's parent or legal guardian consents in writing to:

(A) Allow the qualifying patient's medical use of marihuana;

(B) Serve as the qualifying patient's primary caregiver; and

(C) Control the acquisition of the marihuana, the dosage, and the frequency of the medical use of marihuana by the qualifying patient.

(c) The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 business days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.

(d) The department shall issue a registry identification card to the primary caregiver, if any, who is named in a qualifying patient's approved application; provided that each qualifying patient can have no more than 1 primary caregiver, and a primary caregiver may assist no more than 5 qualifying patients with their medical use of marihuana.

(e) The department shall issue registry identification cards within 5 business days of approving an application or renewal, which shall expire 2 years after the date of issuance. Registry identification cards shall contain all of the following:

(1) Name, address, and date of birth of the qualifying patient.

(2) Name, address, and date of birth of the primary caregiver, if any, of the qualifying patient.

(3) The date of issuance and expiration date of the registry identification card.

(4) A random identification number.

(5) A photograph, if the department requires one by rule.

(6) A clear designation showing whether the primary caregiver or the qualifying patient will be allowed under state law to possess the marihuana plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference.

(f) If a registered qualifying patient's certifying physician notifies the department in writing that the patient has ceased to suffer from a debilitating medical condition, the card shall become null and void upon notification by the department to the patient.

(g) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any local, county or state governmental agency.

(h) The following confidentiality rules shall apply:

(1) Subject to subdivisions (3) and (4), applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and physicians, are confidential.

(2) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Except as provided in subdivisions (3) and (4), individual names and other identifying information on the list are confidential and are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The department shall verify to law enforcement personnel and to the necessary database created in the marihuana tracking act as established by the medical marihuana facilities licensing act whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) A person, including an employee, contractor, or official of the department or another state agency or local unit of government, who discloses confidential information in violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than $1,000.00, or both. Notwithstanding this provision, department employees may notify law enforcement about falsified or fraudulent information submitted to the department.

(i) The department shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:

(1) The number of applications filed for registry identification cards.

(2) The number of qualifying patients and primary caregivers approved in each county.

(3) The nature of the debilitating medical conditions of the qualifying patients.

(4) The number of registry identification cards revoked.

(5) The number of physicians providing written certifications for qualifying patients.

(j) The department may enter into a contract with a private contractor to assist the department in performing its duties under this section. The contract may provide for assistance in processing and issuing registry identification cards, but the department shall retain the authority to make the final determination as to issuing the registry identification card. Any contract shall include a provision requiring the contractor to preserve the confidentiality of information in conformity with subsection (h).

(k) Not later than 6 months after the effective date of the amendatory act that added this subsection, the department shall appoint a panel to review petitions to approve medical conditions or treatments for addition to the list of debilitating medical conditions under the administrative rules. The panel shall meet at least twice each year and shall review and make a recommendation to the department concerning any petitions that have been submitted that are completed and include any documentation required by administrative rule.

(1) A majority of the panel members shall be licensed physicians, and the panel shall provide recommendations to the department regarding whether the petitions should be approved or denied.

(2) All meetings of the panel are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(*l*) The marihuana registry fund is created within the state treasury. All fees collected under this act shall be deposited into the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of licensing and regulatory affairs shall be the administrator of the fund for auditing purposes. The department shall expend money from the fund, upon appropriation, for the operation and oversight of the Michigan medical marihuana program. For the fiscal year ending September 30, 2016, $8,500,000.00 is appropriated from the marihuana registry fund to the department for its initial costs of implementing the medical marihuana facilities licensing act and the marihuana tracking act.

7. Scope of Act.

Sec. 7. (a) The medical use of marihuana is allowed under state law to the extent that it is carried out in accordance with the provisions of this act.

(b) This act does not permit any person to do any of the following:

(1) Undertake any task under the influence of marihuana, when doing so would constitute negligence or professional malpractice.

(2) Possess marihuana, or otherwise engage in the medical use of marihuana at any of the following locations:

(A) In a school bus.

(B) On the grounds of any preschool or primary or secondary school.

(C) In any correctional facility.

(3) Smoke marihuana at any of the following locations:

(A) On any form of public transportation.

(B) In any public place.

(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana.

(5) Use marihuana if that person does not have a serious or debilitating medical condition.

(6) Separate plant resin from a marihuana plant by butane extraction in any public place or motor vehicle, or inside or within the curtilage of any residential structure.

(7) Separate plant resin from a marihuana plant by butane extraction in a manner that demonstrates a failure to exercise reasonable care or reckless disregard for the safety of others.

(c) Nothing in this act shall be construed to require any of the following:

(1) A government medical assistance program or commercial or non-profit health insurer to reimburse a person for costs associated with the medical use of marihuana.

(2) An employer to accommodate the ingestion of marihuana in any workplace or any employee working while under the influence of marihuana.

(d) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marihuana to avoid arrest or prosecution is punishable by a fine of $500.00, which is in addition to any other penalties that may apply for making a false statement or for the use of marihuana other than use undertaken pursuant to this act.

(e) All other acts and parts of acts inconsistent with this act do not apply to the medical use of marihuana as provided for by this act.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act clarifies ambiguities in the law in accordance with the original intent of the people, as expressed in section 2(b) of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26422:

"(b) Data from the Federal Bureau of Investigation Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marihuana arrests in the United States are made under state law, rather than under federal law. *Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marihuana.*". [Emphasis added.]

This amendatory act is curative and applies retroactively as to the following: clarifying the quantities and forms of marihuana for which a person is protected from arrest, precluding an interpretation of "weight" as aggregate weight, and excluding an added inactive substrate component of a preparation in determining the amount of marihuana, medical marihuana, or usable marihuana that constitutes an offense. Retroactive application of this amendatory act does not create a cause of action against a law enforcement officer or any other state or local governmental officer, employee, department, or agency that enforced this act under a good-faith interpretation of its provisions at the time of enforcement.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Rep. Kesto

ENROLLED HOUSE BILL No. 4827

AN ACT to establish a statewide monitoring system to track marihuana and marihuana products in commercial trade; to monitor compliance with laws authorizing commercial traffic in medical marihuana; to identify threats to health from particular batches of marihuana or medical marihuana; to require persons engaged in commercial marihuana trade to submit certain information for entry into the system; to provide the powers and duties of certain state departments and agencies; to provide for remedies; and to provide for the promulgation of rules.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "marihuana tracking act".

Sec. 2. As used in this act:

(a) "Department" means the department of licensing and regulatory affairs.

(b) "Licensee" means that term as defined in section 102 of the medical marihuana facilities licensing act.

(c) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(d) "Registered primary caregiver" means that term as defined in section 102 of the medical marihuana facilities licensing act.

(e) "Registered qualifying patient" means that term as defined in section 102 of the medical marihuana facilities licensing act.

(f) "Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26423.

(g) "Statewide monitoring system" or "system" means an internet-based, statewide database established, implemented, and maintained directly or indirectly by the department that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

(*i*) Verifying registry identification cards.

(*ii*) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.

(*iii*) Verifying in a commercially reasonable time that a transfer will not exceed the limit that the registered qualifying patient or registered primary caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26424.

Sec. 3. (1) The department shall establish a statewide monitoring system for use as an integrated marihuana tracking, inventory, and verification system. The system must allow for interface with third-party inventory and tracking systems as described in section 207 of the medical marihuana facilities licensing act to provide for access by this state, licensees, and law enforcement personnel, to the extent that they need and are authorized to receive or submit the information, to comply with, enforce, or administer this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; or the medical marihuana facilities licensing act.

(2) At a minimum, the system must be capable of storing and providing access to information that, in conjunction with 1 or more third-party inventory control and tracking systems under section 207 of the medical marihuana facilities licensing act, allows all of the following:

(a) Verification that a registry identification card is current and valid and has not been suspended, revoked, or denied.

(b) Retention of a record of the date, time, quantity, and price of each sale or transfer of marihuana to a registered qualifying patient or registered primary caregiver.

(c) Determination of whether a particular sale or transfer transaction will exceed the permissible limit established under the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(d) Effective monitoring of marihuana seed-to-sale transfers.

(e) Receipt and integration of information from third-party inventory control and tracking systems under section 207 of the medical marihuana facilities licensing act.

(3) The department shall promulgate rules to govern the process for incorporating information concerning registry identification card renewal, revocation, suspension, and changes and other information applicable to licensees, registered primary caregivers, and registered qualifying patients that must be included and maintained in the statewide monitoring system.

(4) The department shall seek bids to establish, operate, and maintain the statewide monitoring system under this section. The department shall do all of the following:

(a) Evaluate bidders based on the cost of the service and the ability to meet all of the requirements of this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; and the medical marihuana facilities licensing act.

(b) Give strong consideration to the bidder's ability to prevent fraud, abuse, and other unlawful or prohibited activities associated with the commercial trade in marihuana in this state, and the ability to provide additional tools for the administration and enforcement of this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; and the medical marihuana facilities licensing act.

(c) Institute procedures to ensure that the contract awardee does not disclose or use the information in the system for any use or purpose except for the enforcement, oversight, and implementation of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, or the medical marihuana facilities licensing act.

(d) Require the contract awardee to deliver the functioning system by 180 days after award of the contract.

(5) The department may terminate a contract with a contract awardee under this act for a violation of this act. A contract awardee may be debarred from award of other state contracts under this act for a violation of this act.

Sec. 4. The information in the system is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information in the system may be disclosed for purposes of enforcing this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; and the medical marihuana facilities licensing act.

Enacting section 1. This act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This act does not take effect unless House Bill No. 4209 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved .....

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Governor

Acme Township Planning Commission Bylaws
Adopted December 22, 2008
As Amended September 12, 2016

The following Bylaws are adopted by the Acme Township Planning Commission ("Commission") to facilitate the performance of its duties pursuant to the Michigan Planning Enabling Act ("MPEA"), MCL 125.3801 *et seq*. These Bylaws supersede and/or repeal any prior rules or bylaws adopted by the Commission. These Bylaws are also adopted to facilitate the duties of the Commission in its administration of the zoning ordinance pursuant to the Michigan Zoning Enabling Act, MCL 125.3101 *et seq*.

Section 1.0: Officers

1.1 Selection. At the regular meeting in July of each year, the Commission shall select from its membership a Chairperson, Vice-Chairperson, and Secretary. All officers are eligible for re-election.

1.2 Tenure. The Chairperson, Vice-Chairperson, and Secretary shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office, or until they are removed for misfeasance, malfeasance, or nonfeasance by the Township Board.

1.3 Duties of the Chairperson. The Chairperson shall preside at all meetings, appoint committees and advisory committees, authorize calls for special meetings, shall execute documents in the name of the Commission, prepare an agenda of items, to be considered at each Planning Commission meeting (for the Secretary of the Planning Commission), and perform such other duties as may be ordered by the Commission.

1.4 Duties of the Vice-Chairperson. The Vice-Chairperson shall act in the capacity of Chairperson in their absence and in the event the office of Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term, and the Commission shall select a successor to the office of Vice-Chairperson for the unexpired term. The Vice-Chairperson shall perform such duties as the Commission may determine.

1.5 Duties of the Secretary

(1) Minutes. Minutes shall be kept of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. Corrections in the minutes shall be made not later than the next meeting after the meeting to which the minutes refer. Corrected minutes shall be available no later than the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.

(2) Recordings. All meeting and study sessions shall be recorded on tape.

(3) Notice of Regular Meetings. There shall be posted, within 10 days after the first meeting of the Commission in each calendar, or fiscal, year, public notice stating the dates, times and places of its regular meetings for that year.

(4) Special Meetings. The Secretary shall provide for notice to each Commission member of the time, place, and purpose of special meetings at least 48 hours prior to such meetings. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his/her address as it appears in the Township records.

(5) Staff Assistance. The Secretary may be assisted by Commission staff in all tasks set out in the section as may be agreed upon from time to time between the Commission and its Staff.

1.6 Resignation from an office. Any officer of the Commission may resign their office at any time by giving written notice to the Commission. The Commission shall elect a replacement to complete the remainder of the officer's term.

1.7 Resignation from the Planning Commission. Any member may resign from the Planning Commission by submitting a letter of resignation to the Township Board.

Section 2.0: Meetings

2.1 Regular Meetings. Commission meetings will be held each month in the Township Hall at a regular day and time set by the Planning Commission by resolution, provided there is sufficient business to come before the Planning Commission at that time. The Commission shall hold not less than four regular meetings each year. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternative meeting day in the same month.

2.2 Special Meetings. Special meetings shall be called at the request of the Chairperson, or by two members of the Commission.

2.3 Study Meeting. To facilitate the detailed study of rezoning petitions, subdivision plats and other planning matters, the Commission from time to time may hold study meetings. Such meetings shall be for information and educational purposes and shall not require a quorum unless official action is to be taken.

2.4 Michigan Open Meetings Act. All meetings shall be noticed and conducted in accord with the Michigan Open Meetings Act, Public Act 267 of 1976, as amended.

2.5 Quorum. A majority of the total number of Commissioners shall constitute a quorum for the transaction of business and the taking of official action. The affirmative vote of a majority of the total Commission shall be necessary for the adoption of any part of a general development plan. Whenever a quorum is not present at a regular or special meeting, those present may adjourn the meeting to another day or hold the meeting for the purpose of considering such matters as are on the agenda. No action taken at such a meeting shall be final, or official.

2.6 Notification of intended absences. If a Commission member is unable to attend a meeting they should notify the Secretary or the Township Manager as far in advance as possible.

2.7 Order of Business. The Secretary may prepare an agenda for each meeting and the order of business therein may be as follows:

(1) Call to Order
(2) Roll Call
(3) Conflict of interest inquiry
(4) Approval of Agenda
(5) Consent calendar
(6) Correspondence
(7) Limited Public Comment
(8) Preliminary Hearings
(9) Public Hearings
(10) Old Business
(11) New Business
(12) Public Comment
(13) Adjournment

2.8 Motions. The name of the originator of a motion and its second shall be recorded.

2.9 Voting. Voting shall be by voice and shall be recorded by "yes" and "no." Roll call votes will be recorded only upon request by a member of the Commission or upon the advice of the Township's Attorney.

2.10 Conflict of Interest. Members of the Commission shall avoid conflicts of interest. The Commission shall employ Acme's Conflict of Interest Policy to determine whether such a conflict exists and how to handle it.

2.11 Attendance. If any member of the Commission is absent from three consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency may be grounds for the Township Board to remove any member for nonperformance of duty or misconduct. The elected secretary, or acting secretary in the absence of the elected secretary, shall keep attendance records of the Commission. The Secretary shall inform the Township Board, in writing, of any delinquencies.

Section 3.0: Procedure for Public Hearings.

(1) Chairperson announces order of hearing, as follows.
(2) Applicant or representative presents request including reasons, information, and data supporting request.
(3) Chairperson gives public comment rules as follows: (optional)
    a. Please address all comments to the chair.
    b. Please stand and give your name and address.
    c. Please be as concise and as factual as possible.
    d. Please be courteous and do not cheer or boo comments by others.
    e. Everyone will have an opportunity to be heard; however, the chair may establish time limits to permit the orderly conduct of business. Second comments will not be permitted until every person has had a chance to speak for the first time.

f. Remember that this hearing is being recorded as well as minutes being taken.

(4) Chairperson opens hearing for public comments (note time.)
(5) Chairperson closes hearing to public comments (note time.)
(6) Questions and deliberation by Planning Commission.
(7) Action by Planning Commission.

Section 4.0: Amendments. These rules may be amended by a majority vote of the Commission.