Ross Township

In considering the implementation of Ordinance No. 205, the Planning Commission was guided by State law, the Ross Township Master Plan, and the Ross Township Zoning Ordinance.

Specifically, the agricultural-related medical marihuana facilities (grower facilities and processor facilities) were identified for the zoning districts where other similar agricultural and commercial rural activity is currently allowed, and the medical marihuana facilities in general were directed to the Township's only industrial zoning district.

This approach was determined to be consistent with:

1) The Ross Township Master Plan's **Overriding Goal** to 'preserve its rural character' . . which has been defined as a 'predominance of natural vegetation, open space or farmland, water resources and view sheds, and limited disturbance to the landscape.'

2) The Ross Township Master Plan's **Overriding Objectives** to:

    - Direct residential development to existing 'built up' areas;
    - Avoid development impact on wetlands, woodlands, farmland and rural open space areas;
    - Integrate commercial/industrial land use into their surrounding environment through design standards;
    - Apply development standards to protect the Township natural resources.

The "AP" Agricultural Preservation District and the "R-R" Rural Residential District currently exist as the only two (2) zoning districts within the Township that allow agricultural land use. They were designed to implement the agricultural and rural preservation goals/objectives set forth in the Master Plan.

Specifically, 'Agricultural Production' is allowed as a Permitted Use (or, by right) within both the "AP" and "R-R" Districts.

'Agricultural production' is defined as *'the production for commercial purposes and sale for the purpose of obtaining a profit in money by the raising, harvesting, and selling of crops and forage; by feeding or breeding or management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honey bees; or for dairying and the sale of dairy products of animal husbandry or any combination thereof; or any other agricultural, aquaculture, horticultural or floricultural use such as fruits, plants, ornamental trees, timber, shrubs, nursery stock, and*

vegetable, including in each instance the right to sell at wholesale or retain from the premises any goods or products produced thereon.'

In addition to 'agricultural production', the "AP" and "R-R" Districts also allow the following agricultural-/rural-/commercial-type land uses:

- On Farm Biofuel Production Facilities
- Processing of Agricultural Products, including Fruit Packing Plants and Slaughter Houses
- Commercial Greenhouses/Nurseries
- Kennels
- Veterinary Clinics
- Hunt/Gun Clubs
- Golf Courses
- Horse Boarding/Riding Stables

The "R-R" District also allows the following additional agricultural-/rural-/commercial-type land uses:

- Campgrounds
- Schools
- Earth Removal, Gravel Processing, & Mining
- Ski Parks
- Conference and Educational Centers

Allowing Grower Facilities and Processor Facilities in the "AP" and "R-R" Districts was determined to be consistent with the Description of District provision for each district and the agricultural-/rural-/commercial –type uses already allowed 'by right' and by special permit within each district.

To ensure the compatibility of a Grower Facility or Processor Facility with the surrounding area, each use has been allowed within the "AP", "R-R" and "I-R" Districts only as a Special Land Use.

A special land use is a use that is generally compatible with the permitted uses, but has unique characteristics that could possibly create problems, conflict with existing uses, or become a nuisance if located at an inappropriate site or without proper controls or limitations. By designating a land use as a special land use, the Township has chosen to allow it only in selected locations within the Township, subject to approval after ensuring its compliance with applicable review standards.

To further ensure the compatibility of said uses with the surrounding area, the Ordinance establishes a set of criteria specific to any medical marihuana facility. This impact-based

approach is similar to that applied to other uses currently allowed within the "AP" and "R-R" Districts, such as:

- Earth Removal, Gravel Processing & Mining
- Horse Boarding/Riding Stables
- Golf Courses
- Campgrounds
- Conference/Educational Centers
- Kennels
- On Farm Biofuel Production Facilities
- Veterinary Clinics

Linking the Master Plan and the Zoning Ordinance further, the established criteria specific to any medical marihuana facility directly responds to the Master Plan objectives to:

Conserve the Township's farmland*: 'every effort will be made to accommodate those individual property owners and businesses that desire to continue to use their land for agricultural purposes.' (Article 20, Item 36)*

Preserve the Township's open space: '*open space is still the predominant feature of the Township and thus defines the character of the Township . . ' (Article 20, Item 36. D. 7.)*

Protect the Township's natural resources: *'the Township's natural features cannot be sacrificed for development.' (Article 20, Item 36. D. 2., 3., & 4.)*

Protect the quality of the Township's groundwater: *'the quality of the groundwater resources must be protected to sustain the viability of the Township for living, working, and recreation.' (Article 20, Item 36. D. 4.)*

Develop and apply innovative development standards and techniques: '*to achieve compatibility between the built environment and the Township's natural environment.' (Article 20, Item 36, D. 1., 2., 3., 4. & 7.)*

Assure a safe and efficient network of streets and roads: *'transportation patterns and land use are interdependent . . . requires street networks and placement of (land use) activities to be established in a cost-effective and environmentally sensitive manner.' (Article 20, Item 36, D. 5.)*

Provide adequate public services and facilities: '*adequate meaning that those public services will meet or exceed the expectations of the Township's residents and businesses within the financial resources of the Township's government*.' *(Article 20, Item 36, D. 4. & 6.)*

Assure a planned, concentrated approach to commercial and industrial development: *'establish standards that ensure that commercial and industrial development respect the natural, open*

space character of the Township though efficient and aesthetic concentrated development.' (Article 20, Item 36.)

In summary:

- The "AP", "R-R" and "I-R" Districts are designed to implement the goals and objectives of the Master Plan;
- The "AP" and "R-R" Districts are the only districts in the Township that allow agricultural and agricultural-related land use and have been designed to implement the agricultural- and rural-based goals/objectives of the Township;
- Grower Facilities and Processor Facilities are similar to, and in some cases, less impactful than other uses currently allowed within the "AP", "R-R", and "I-R" Districts;
- Medical marihuana facilities are allowed only as special land uses;
- Special land uses must be reviewed in consideration of site specific, impact based criteria;
- Criteria specific to medical marihuana facilities, developed consistent with Master Plan goals/objectives, applies to all facility proposals;
- As a special land use, a facility proposal must be reviewed for compatibility with other uses allowed in the district; must be treated similarly as other uses allowed in the district; and may be conditioned in such a manner to mitigate any identified impacts.

Medical Marihuana History and Township Overview

In order to address concerns that Ross Township residents may have regarding medical marihuana and medical marihuana facilities, Ross Township would like to offer to its residents a thorough analysis of the law and the licensure process along with a Memo from the Township Planner.

2008 Ballot Initiative

In 2008 a group called the Michigan Coalition for Compassionate Care petitioned the public for signatures to place a legislative initiative on the November ballot asking the legislature to permit the use and cultivation of marihuana for specific medical conditions. The State Constitution, under Section 9, Article II allows for the people of the State to propose laws "which the legislature may enact under the constitution." The petition had to receive signatures of voters totaling 8% of the total vote cast for all candidates for governor in the most recent gubernatorial election. The group received the requisite number of signatures and the measure was sent to the Legislature.

Once received, the Legislature had 40 session days in order to enact or reject the law without change. The Legislature received the initiative in early March 2008 and chose to neither enact nor reject the measure, so it went on the November ballot in 2008 for a vote of the people. The measure was voted in by the people of the State, and the initiated legislation took effect 10 days after the date of the official vote. This law may only be amended or repealed by the voters, or by a three-fourths vote of each house of the Legislature.

The proposed initiative created a new act entitled the Medical Marihuana Act and offers protection against prosecution for qualified patients with debilitating medical conditions and for primary caregivers, each of whom are registered with the State of Michigan.

Currently, 29 states have passed State laws allowing medical marihuana use. Federally, marihuana is listed as a schedule one drug and is not legal.

Initiated Law 1 of 2008

After the ballot initiative was voted in the Michigan Medical Marihuana Act, Initiated Law 1 of 2008 became effective. The law defines several terms including "physician-patient relationship," "debilitating medical condition," "marihuana" and "marihuana-infused product," "primary caregiver," and "qualifying patient."

In summary, the law allows for use of medical marihuana by a qualified patient after recommendation by a physician. The patient must obtain a registry identification card, issued by the State of Michigan, in order to possess marihuana in an amount that does not exceed 2.5 ounces. Each patient may grow up to 12 plants for their own personal use.

A patient may also designate a primary caregiver through which they may obtain the medical marihuana. The caregiver must also be registered through the State of Michigan. Caregivers may grow 12 plants for each of their registered patients. All plants must be grown within an enclosed and locked facility which also allows for outdoor growing. The rules enacted under the

Michigan Medical Marihuana Act state that a primary caregiver may only have up to 5 patients. They therefore may grow a maximum of only 72 plants (60 for their patients and an additional 12 for their own use if they are also a registered patient.) There are over 300,000 medical marijuana patients and caregivers in Michigan.

While the initial law allowed for the use of medical marihuana, many questions remained as to how the initiative would advance. As the use became more prevalent, many concerns arose that were not codified in the initial legislation.

Concerns with the Michigan Medical Marihuana Act as Passed in 2008

Issues arose in the years following the enactment of the Michigan Medical Marihuana Act (MMA). While the law allowed caregivers to grow plants and produce marihuana for patient use, this ultimately expanded into dispensaries, which offered the plant in many various processed forms. These began with many caregivers, each with their limited patients, all doing their processing and sale in one place. Under the initial law, commercial enterprises such as these were not defined and therefore were not allowed.

Issues arose with the ability of patients to get a stable supply of medical marihuana. Serious concerns were also raised regarding issues with product quality and safety. There was no defined process for making certain that the product was mold free, or contained the appropriate amounts of THC or CBD. Patients could not be certain they were getting quality medication.

Another major concern was tracking the substance. In order to ensure any type of regulation of the substance, seed to sale tracking of every plant would need to occur to assure the State that every bit of the product was accounted for and was going to only those registered patients within the State.

When it became apparent that gaps had been left in the law, the legislature decided to enact law that would regulate marihuana facilities and would require tracking. These laws became the Medical Marihuana Facilities Licensing Act and the Marihuana Tracking Act.

Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 and the Marihuana Tracking Act, Public Act 282 of 2016

The Medical Marihuana Facilities Licensing Act (MFLA) and the Marihuana Tracking Act (Tracking Act) were passed in order to address concerns the legislature had regarding the commercial production of and tracking of medical marihuana. These acts do not invalidate the MMA; they only supplement the Act by creating regulations for commercial production and growth. The regulations that have always applied to caregivers and patients still apply, even in light of the passage of the MFLA and the Tracking Act. Registered patients may still grow their own plants and caregivers may limit their operations to 5 patients and continue as they have previously. Local municipalities may not pass ordinances that would not allow registered patients and caregivers to operate as they always have.

The MFLA allows for five different commercial aspects of medical marihuana production: growers, processors, provisioning centers (dispensaries), secure transporters, and safety compliance facility. It also defines “statewide monitoring system” for tracking purposes.

Tracking is delineated within the Tracking Act, which provides for the department (Licensing and Regulatory Affairs) to establish a statewide monitoring system to track seed to sale inventory of marihuana. All transfer of product must be entered into the statewide monitoring system.

Under the MFLA, growers may be licensed by class; Class A can grow up to 500 plants, Class B up to 1,000 plants and Class C up to 1,500 plants. Transfer of the plants off-site to a processing center may only be completed by secure transport and all products must go through the safety compliance facility to make certain it is quality product.

A processor may only purchase marihuana from a grower and may only sell product to a provisioning center or another processor. Processors turn the plant into the end product.

Secure transporters haul the product or plants from one facility to the next, but cannot deliver directly to a patient or caregiver. They can store and transport marihuana. All inventories must be entered into the statewide monitoring system.

Provisioning centers, commonly referred to as dispensaries, can purchase or transfer marihuana from a grower or processor only and may only sell to a registered qualified patient or a registered primary caregiver. The provisioning center may transfer product to a safety compliance facility by way of a secure transporter.

A safety compliance facility will test the marihuana and marihuana product to make certain it is free of al chemical residue such as fungicides and insecticides. It will also determine THC and CBD levels, test for microbial and mycotoxin contents, and make certain good manufacturing practices are being adhered to.

The MFLA forms the boards that will license the facilities and those that will set and review administrative rules.

The MFLA allows local municipalities to weigh in on the facilities they will allow within their municipalities. Municipalities may choose to not act and therefore opt out of allowance of any type of facility, or they may pass an ordinance allowing facilities and then amend or create zoning ordinances to set out zoning regulations regarding the allowed facilities. Local municipalities also have the right to charge an annual fee up to $5,000 per license.

Finally the MFLA provides for taxes and fees to be paid to the State and local governments, and to law enforcement. 25% of the funds in the medical marihuana excise fund must be appropriated to municipalities where facilities are located.

Formation of BMMR and the Emergency Rules

The Michigan Department of Licensing and Regulatory Affairs (LARA) is charged with determining which facilities will be licensed. In order to do this, a new section was created dealing solely with issues related to medical marihuana and the facility licensing. The section is entitled the Bureau of Medical Marihuana Regulation (BMMR). BMMR reviews license applications and completes background checks on all applicants, compiles applicant information and presents it to the licensing board. They also maintain all statistics on registered patients and caregivers.

The current rules related to facilities were passed as emergency rules to begin regulation of facilities. A board was formed to review and update the rules as needed.

Some of the provisions of the rules allow the State and locals to regulate the quality and standards of the facilities. All applicants must supply within their application criminal background checks and CPA attested financial statements, as well as disclosure of all parties with a business interest in the facility. Applicants must have a facility plan for their facility in place and submit it to the State, along with an attestation that the municipality has adopted zoning to allow facilities and they must submit the actual zoning language, which must be signed by the local clerk.

The marihuana facility plan must include the type of proposed marihuana facility and the location and description of the municipality, a diagram of the facility including the address, size and dimensions, specifications, location of common entryways, doorways, or passageways, means of public entry or exit, and any limited-access areas within the facility.

The facility must submit a floor plan that includes dimensions, maximum storage capabilities, number of rooms, dividing structures, fire walls, entrances and exits, any means of egress, and any construction details for structures and fire-rated construction for required walls. The building structure information must also be submitted, along with the zoning classification and zoning information. The facility must also submit a security plan. The State may contact local police departments and fire departments when evaluating these plans for certain verifications and input. All facilities must pass an inspection by the State before they will be granted a license.

The facilities must show that all insurance coverage is in place with certain limits required. Total capitalization funds must be shown to be available to the facility, with amounts ranging from $150,000-$500,000 depending on the type of license applied for, and 25% of the amount must be liquid and it must be without lien or encumbrance.

After issuance of the license the State may continue to inspect and audit records of the facilities to ensure they remain in compliance, as well as inspections regarding building structure and safety. Locals may inspect as well.

The rules state that a grower, a processor, and a provisioning center may operate together at one location. Each must obtain their individual license.

Any outdoor growing of plants must be fully contained by fencing or barriers that do not allow for the public to view the plants. After the plants are harvested, all processing, including the drying, must be done inside. All transport is done in a locked and sealed container by a secure transporter. Secure transporters are not allowed to sell the product. Provisioning centers must have a separate room for sales of the product.

In regards to building and fire safety, all facilities may be inspected by a state building code official, state fire official, or code enforcement official to confirm that there are no health or safety concerns and to ensure all applicants and licensees comply with the state construction code. A permanent certificate of occupancy must be issued by the appropriate agency before the facility may be operated.

A facility will not be allowed to operate until it has passed inspection by the Bureau of Fire Services, adequate fire suppression devices or other fire safety requirements must meet state standards. Operational permits may be required for carbon dioxide systems used in beverage dispensing applications, amended for cultivation use and extraction, compressed gases, combustible fibers, flammable and combustible liquids, fumigation and insecticidal fogging, hazardous materials, high piled storage (high rack system cultivation), and liquefied petroleum (LP) gas. Some systems may require construction permits, for building construction, electrical, mechanical, compressed gases, flammable and combustible liquids, hazardous materials, LP gas, automatic fire extinguishing/suppression systems, fire alarm and detections systems, and related equipment found during fire safety inspections.

A facility must comply with the NFPA 1, 2018 fire code and ductwork must be installed with accordance with the manufacturer and the fire code, suppression systems outlined in the fire code may be required to meet suppression needs, and processors, growers, and safety compliance facilities must have exhaust ventilation systems that comply with local fire code and state mechanical codes that will reduce or eliminate noxious gasses or other fumes produced as part of any operation.

Growers may be inspected at any time if there are modifications to the grow areas or any rooms for processing or extracting, changes in occupancy, changes to the facilities, or changes in extraction methods and processing. Growers may use flammable gases of varying materials in cultivation or extraction, but they must meet the requirements in the fire code and the applicable parts of the international fuel gas code. Any process that extracts oil from plants and products using flammable gas or flammable liquid must have leak and/or gas detection measures. All equipment used in the detection of flammable and/or toxic gases must be approved by the Bureau of Fire Services and any construction and mechanical permit requirements. Exhaust systems are regulated by the fire code and the state mechanical code.

A security plan must be submitted that demonstrates that all persons at the facility, apart from employees, are escorted by the licensee or an employee when in limited-access areas of the facility, the facility shall be locked with commercial-grade, nonresidential door locks, including all interior rooms, windows, and points of entry and exit. The facility must have an alarm system and video surveillance system that is capable of recording areas where marihuana products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the marihuana facility, any limited-access areas and security rooms, areas storing the surveillance system storage device, entrances and exits from inside and outside vantage points, point of sale areas. All transfers between rooms and between facilities, if they are in the same location, must be recorded. Cameras must record 24 hours per day, and must display the time and date; all recording must be maintained for two weeks. All records may be inspected by the state.

Growers are allowed no more than 100 immature plants and all must be uniquely identified in the statewide monitoring system. Each plant that is greater than 8 inches in height or more than 8 inches in width shall be tagged with an individual plant tag and recorded in the statewide monitoring system. Once the plant is harvested, it becomes part of a harvest batch for testing by a safety compliance facility, the batch must pass testing before it can be packaged, and the packages must then be tagged and sent to a processor.

All safety compliance facilities must use analytical testing methods for the required quality assurance tests and these are outlined in the rules as well. Tests are conducted for moisture

content, potency analysis, tetrahydrocannabinol levels, tetrahydrocannabinol acid levels, cannabidiol and cannabidiol acid levels, foreign matter inspection, microbial and mycotoxin screening, pesticides, chemical residue, fungicides, insecticides, metals screening, residual solvents levels, terpene analysis and water activity content. The department must publish a list of approved pesticides for use in the cultivation and production of plants and products to be sold. All test results must be entered into the statewide monitoring system.

Processors must prepackage and properly label marihuana-infused products before sale or transfer and all THC levels must be listed and recorded with the statewide monitoring system. Products must be labeled with the name and address of the processing facility, the name of the infused product, the ingredients, the net weight or volume, any allergens or nutritional specifications, along with a statement that the product was made in a marihuana facility. Refrigeration and safe handling procedures must be followed and federal safety standards adhered to. All edible products must be packaged in a way that would not appeal to minors or be confused with candy and must be in childproof containers.

All product inventories must be stored at a marihuana facility in a secured limited access area or restricted access area, and identified and tracked consistently with the statewide monitoring system. All containers must be clearly labeled and secure. A provisioning center must store all products behind a counter or other barrier separated from stock rooms. A safety compliance facility must have an adequate chain of custody and instructions for sample and storage requirements.

All employees of a licensee must go through a criminal history background check prior to employment and must report any new or pending charges or convictions. All employees are entered into the statewide monitoring system. Any employee charged or convicted for a controlled substance-related felony or any other felony must be reported by the licensee to the department immediately. All employees must be trained and a have a training manual listing safety procedures, guidelines, security protocol, and educational training on marihuana product information, dosage and daily limits, or materials listing the same. All employee records are subject to inspection by the department or any authorized agents.

The Licensing Process in a Nutshell

In order to obtain licensure, local municipalities must pass an ordinance allowing medical marihuana facilities in their district and update zoning laws to delineate requirements surrounding placement or facilities. Locals may charge up to $5,000 per license annually to cover administrative and enforcement costs to the municipality.

Once local municipalities approve allowance of facilities, the applicant must submit an application for licensure with LARA and BMMR. The application is a two-step process; step one is a pre-qualification application which can be completed prior to finding a location for the proposed facility and then step two is the license qualification. The applications require a full background check of the applicant and any named supplemental applicants, which include anyone with a business interest in the facility, either directly or indirectly, and a $6,000 license fee; an annual fee will be assessed as well. Actual qualifications vary depending on the type of facility. All applicants must submit fingerprints and a criminal history, if any, as well as any history of litigation, financial information, real property interests, tax history, and any incidence of bankruptcy or debt. If each of the above is answered completely and the criminal history of

the applicant is clean, then the licensing board may approve the facility. Prior to approval, all building codes and local zoning ordinances must be in compliance. Failure to comply with any of the emergency rules will result in a denial of the license.

Ross Township Medical Marijuana Facilities

Ross Township Board members have been investigating authorization of medical marihuana facilities in the Township for over a year. Various discussions have occurred between the Board members at open meetings of the Township Board over such time during member comment time and as agenda items. The Ross Township Board ultimately decided to participate in this States system of commercial medical marihuana facilities. Some benefits to our Township to allow these facilities are:

1. The $5,000 annual fee collected by the Township for each license. Facilities can have multiple licenses; therefore, a single site can produce substantial annual fees. The fees can be used for administration and enforcement, including costs for police and fire operations.
2. Tax revenues will be dispersed to the Township by the State from the medical marihuana excise tax fund. 25% of the State fund goes to local municipalities in proportion to number of facilities in the municipality; 30% to counties in proportion to number of facilities in county; 5% to county sheriffs in proportion to number of facilities in the county.
3. Revitalization of the area by bringing in employment opportunities and new investment in the Township.
4. Expansion of the Township property tax base from new investment in land, buildings, and equipment.
5. Agricultural production through the growing and processing of medical marihuana and regulating such facility sites through zoning to assure compatibility with the rural environment.
6. Intended, as part of the State system, to create a safe and stable supply of medical marihuana to the patients in Michigan with debilitating medical conditions.
7. The Township does not permit medical marihuana dispensaries.

To carry this forward, the Ross Township Board adopted at an open public meeting of the Township Board Ordinance No. 205. Ordinance No. 205 is specifically permitted by State law and represents a policy decision by the Township Board. Ordinance No. 205 was effective December 20, 2017 and opted in the Township to authorize commercial medical marihuana growers, processors, secure transporters, and safety compliance facilities (no provisioning centers are allowed) to be located in the Township pursuant to required State operating licensure, local zoning compliance and, compliance with any other local ordinances. The Township wanted to put these provisions in effect quickly to better compete to attract the highest quality facilities for the Township. The Township's authorization requires that a facility be licensed by the State before it can operate and the State has very rigorous requirements for licensure.

The Township did not limit the number of licenses that could be authorized in the Township but, instead, determined to regulate the location of medical marihuana facilities in the Township through zoning restrictions. Following the adoption of Ordinance No. 205 the Township Planning Commission held a public hearing to consider the necessary zoning ordinance amendments to implement the authorization allowed under Ordinance No. 205. Following the Planning Commission public hearing, the Planning Commission recommended approval of

certain zoning ordinance amendments to the Township Board. The Board accepted the recommendation of the Township's Planning Commission and adopted the amendments to the zoning ordinance pursuant to Ordinance No. 209.

Pursuant to authorization in Ordinance No. 205 and subject to State licensure to operate, Ordinance No. 209 allows for grower facilities and processor facilities when located on the same site as a grower facility, to be located in the Agricultural Preservation District as a special land use and in the Rural Residential District as a special land use. Additionally, grower facilities, processor facilities, safety compliance facilities and secure transporter facilities are all allowed for in the Restricted Industrial District as a special land use. These commercial medical marihuana facilities are not permitted by right but can only be located in these zones following a public hearing and a finding by the Planning Commission that such facilities comply with the special land use standards set out in the zoning ordinance as amended by Ordinance No. 209. Pursuant to these zoning ordinance regulations, medical marihuana facilities may only be located in compliance with a special land use permit and such uses must be compatible.

It should be referenced that pursuant to State law "a grower license does not authorize a grower to operate in an area unless the area is zoned for industrial or agricultural uses and otherwise meets the requirements established in Section 205(1)". Among the many uses allowed for as a permitted use or special land use in the Rural Residential District, agricultural production was already a permitted use. Contrary to some misinformation the Rural Residential District was and is zoned for agricultural uses. The following are the permitted and special uses in the Rural Residential District and the Memo dated June 11, 2018 from the Township Planner provides further guidance on the zoning compatibility.

Section 5.2---Permitted Uses

A. Single family dwelling.

B. Two-family and semi-detached (duplex) dwellings.

C. Agricultural production; provided the keeping of livestock, poultry, fur-bearing animals, or honey bees is prohibited in recorded plats.

D. Home occupation.

E. Family day care home.

F. Foster care (small group) facility.

G. Accessory uses or buildings, when in accordance with the provisions of Section 18.4.

H. Signs, when in accordance with the provisions of Section 18.2.

I. On-Farm Biofuel Production Facility (Type I).

J. Roadside stand, subject to the following:

1. A roadside stand shall not exceed 150 square feet in area. The 150 square foot area dedicated as the 'roadside stand' may be located within a larger structure.

2. A roadside stand may only be located within a larger structure if the larger structure complies with the lot, yard and area requirements in Article 15.

3. A roadside stand that is less than 25 square feet in area or is only left in place seasonally may be located adjacent to the abutting road right-of-way. All other lot, yard and area requirements in Article 15 shall apply.

4. Awnings may be established on up to three sides of a roadside stand and shall not project more than four feet from the stand. In the event the roadside stand is located within a larger structure, the awnings may only be established on that portion of the structure constituting the roadside stand.

5. A parking area equivalent to one parking space per 25 sq. ft. of the roadside stand area is required. Parking areas are not subject to paving requirements but shall be clearly marked and provide adequate turn-around area outside of the road right-of-way.

6. It is the intent of this Section to provide only for the limited seasonal sale of agricultural and related products. It is not intended to encourage the size of investment in equipment that would require a commercial district.

K. Farm market, subject to the following:

1. Sales of farm products or commodities that have been processed/converted into a value-added product are permitted. Such farm products or commodities shall meet State of Michigan Guidelines for 'cottage food' items.

2. A parking area equivalent to one parking space per 25 sq. ft. of the farm market area is required. Parking areas are not subject to paving requirements but shall be clearly marked and provide adequate turn-around area outside of the road right-of-way.

Section 5.3---Special Land Uses

A. Campground.

B. Church.

C. Cemetery.

D. Parochial and private schools.

E. Earth removal, quarrying, gravel processing, mining and related mineral extraction businesses.

F. Golf course.

G. Kennel

H. Private, non-commercial club.

I. Public utility buildings and structures necessary for the service of the community, except that:

1. There is no zoning restriction for utilities to be located in public streets or public rights-of-way.

2. Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference are prohibited.

J. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.

K. Horse boarding or riding stable.

L. Ski park.

M. Conference and training center.

N. Group day care home.

O. Retreat and educational center.

P. Wireless Communications Support Structure.

Q. Open space preservation development.

R. Youth soccer practice field.

S. Clustered land development.

T. On-Farm Biofuel Production Facility (Type II or Type III).

U. Veterinary Clinic.

V. Grower Facility – Class A, Class B and Class C.

W. Processor Facility, when located on the same site as a Grower Facility.

All the special uses in the Rural Residential District are subject to special land use standards. For grower and processor facilities there are standards in place to assure the compatibility that must be met prior to the Planning Commission permitting such uses. A public hearing will be held for each facility. The special land use regulations provide the necessary protections. Contrary to certain misinformation these special uses are not unregulated but in fact quite the opposite. The general special land use regulations provide in relevant part that:

ARTICLE 19 – SPECIAL LAND USES

Section 19.1---Explanation of Special Land Uses

A. In order to make this Ordinance a flexible zoning control and still afford protection of property values and facilitate orderly and compatible development of property within the Township, the Township Planning Commission, in addition to its other functions, is authorized to approve the establishment of certain uses designated as Special Land Uses within the various zoning classifications set forth in the Ordinance.

B. Such special land uses have been selected because of the unique characteristics of the use which, in the particular zone involved, under certain physical circumstances and without proper controls and limitations, might cause it to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto.

C. With this in mind, such special land uses are not allowed to be engaged in within the particular zone in which they are listed unless and until the Planning Commission determines, after a public hearing, that the particular property can be developed and used for the proposed use in accordance with the applicable standards and other criteria for special land use approval set forth in this Ordinance.

Section 19.2---Special Land Use Procedure

A. All applications for special land use permits shall be filed with the Township Clerk and shall include all pertinent plans, specifications and other data upon which the applicant intends to rely for a special land use permit. An application shall not be submitted for Planning Commission consideration until it is administratively complete, and all required fees have been paid.

B. The Planning Commission shall, upon receipt of the application in proper form, schedule and hold a hearing upon the request, preceded by notification as required by law. The applicant shall have the burden of proof for issuance of the special land use permit, which shall include the burden of going forward with the evidence, and the burden of persuasion on all questions of fact which are to be determined by the Commission.

C. Following such hearing, the Planning Commission shall either grant or approve, deny, or approve with conditions a permit for such special land use and shall state its reasons for its decision in the matter. All conditions, limitations, and requirements upon which any such permit is granted shall be specified by the Planning Commission in its decision and shall be filed with the Zoning Administrator and the Township Clerk.

Section 19.3---Criteria for Decision

A. Special land uses are not allowed to be engaged in within a particular zone in which they are listed in this ordinance unless and until the Planning Commission approves or approves with conditions a special land use permit. Such approval shall be granted when the Planning Commission finds from the evidence produced at the hearing that:

1. The size, nature and character of the use will be compatible with the other uses and buildings and structures expressly permitted within the zoning district;

2. The use will be compatible with the natural environment of the area;

3. The use will not adversely affect the capacities of public services and facilities, and will not cause unreasonable traffic congestion or otherwise specially burden the public roads and streets in the area;

4. The use complies with all off-street parking requirements of this Ordinance, and all other applicable requirements imposed by this Ordinance;

5. The use will not in any manner be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood;

6. The use will not adversely affect the public health, safety, and general welfare of the community;

7. The use will be in accordance with the character and adaptability of the land at issue;

8. The general standards hereinabove required for the allowance of such a special land use can and will, in the Commission's judgment, be met at all times by the applicant;

9. The specific standards applicable to particular uses as set forth in Article 20 or elsewhere in this Ordinance can and will, in the Commission's judgment, be complied with at all times.

Section 19.4---Conditions Imposed Upon Approved Special Land Uses

A. Any conditions upon which approval is based shall be reasonable and necessary to insure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, or necessary to protect the natural environment and conserve natural resources andenergy, or necessary to insure compatibility with adjacent uses of land, or necessary to promote the use of land in a socially and economically desirable manner. Any such conditions shall also meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

B. The Township Planning Commission shall have the right to limit the duration of a special land use where the same is of a temporary nature and may reserve the right of periodic review of compliance with the conditions and limitations imposed upon such use.

The specific special land use provisions regarding medical marihuana facilities provide that:

Item 36. **<u>Commercial Medical Marihuana Facilities</u>**

A. A Commercial Medical Marihuana Facility may be authorized to operate within the Township by the holder of a state operating license, pursuant to PA 281 of 2016, as may be amended, the Rules promulgater thereunder, and all applicable local ordinances.

B. No Commercial Medical Marihuana Facility shall be located within 500 feet of any school or public park/playground, with the minimum distance between uses measured between the Facility and the nearest property line of the school or public park/playground.

C. Outdoor trash containers or dumpsters may be required to control the disposal of waste or by-products from any facility operation. When required, an outdoor trash container or dumpster shall be subject to the follows:

1. The placement of the container shall be subject to site plan review.

2. Adequate vehicular access shall be provided to the container which does not conflict with the use of the parking areas or access drives.

3. All containers shall rest on a concrete pad.

4. A solid ornamental screening wall or fence shall be provided around all sides of the container and shall include an access gate. The screening wall or fence and gate shall be of sufficient height to completely screen the container.

5. The container, screening wall or fence, and gate shall be maintained in a neat and orderly manner, free from debris.

D. A Commercial Medical Marihuana Facility shall be reviewed in consideration of the following:

1. Lighting – the placement and arrangement of outdoor lighting serving the facility shall provide adequate security and comply with the purpose, objectives and standards set forth in Section 18.3 – Outdoor Lighting.

2. Noise – Noise and vibrations shall be minimized in their effect upon the surrounding area by the utilization of modern equipment designed to accomplish such minimization and the use of walls and vegetative buffers/screens.

3. Odor – Odor shall be minimized in its effect upon the surrounding area by the utilization of a modern odor control system designed to accomplish such minimization and operational procedures.

4. Environmental – Information on the storage and use of products, water and energy consumption, and waste disposal associated with a facility will be required to allow for an assessment of potential impacts on the site and surrounding area and the applicability of state and local regulations.

5. Traffic – A facility shall be located in consideration of the ingress/egress, loading and travel patterns of the traffic associated with the operation of the facility, with specific attention toward avoiding the creation of traffic through a predominately residential area.

6. Security – Security measures, such as fencing, access controls, and video surveillance, will be considered in determining the ability of the facility to adequately provide for public safety.

7. Impact on Neighboring Property – Barriers and/or buffers, facility separations, and/or operational requirements may be applied to minimize identified injurious or annoying impacts on surrounding properties.