

**SOUTH HAVEN CHARTER TOWNSHIP  
ORDINANCE NO. 154**

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

**SOUTH HAVEN CHARTER TOWNSHIP ORDAINS:**

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

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

**Section 14C.01. PURPOSE**

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

**Section 14C.02. DELINEATION OF THE MARIHUANA BUSINESS  
OVERLAY ZONE**

- A. The Marihuana Business Overlay Zone overlays existing zoning districts delineated on the official South Haven Charter Township Zoning Map. The boundaries of the Marihuana Business Overlay Zone are depicted on Zoning Map, incorporated herein by reference.
- B. If there are disputes as to the location of a Marihuana Business Overlay Zone boundary, the Zoning Board of Appeals will resolve the dispute in accordance with the Zoning Ordinance.
- C. In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this Chapter is required for all development occurring within the Marihuana Business Overlay Zone.

**Section 14C.03. PERMITTED USES.**

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

## **Section 14C.04. SPECIAL USES.**

The following uses are permitted following approval by the Planning Commission as a Special Use and as regulated by Article XV of the Zoning Ordinance:

- A. Adult-use marihuana retailers authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq*, subject to Ordinance No. 153 and this Zoning Ordinance.

## **Section 2. Amendment of Section 3.01 of the Zoning Ordinance**

Section 3.1 of the Zoning Ordinance, entitled “Establishment of Zoning Districts” is amended to add a new reference as follows:

Article XVI C MBO – Marihuana Business Overlay

## **Section 3. Addition of New Section 15.34**

Section 15.34, entitled “Marihuana Businesses,” is hereby added to the Township Zoning Ordinance and reads as follows in its entirety:

### **Section 15.34. Marihuana Businesses.**

In addition to all requirements of Ordinance No. 153, Articles XV (Special Uses) and XXII (Site Plan Review Procedures), and any other requirements of this Zoning Ordinance or Township Ordinances, and any conditions imposed by the Planning Commission in granting special use approval, all adult-use marihuana establishments must comply with the following requirements. All terms defined in Ordinance No. 153 have the same meaning when used in this section.

1. Adult-use marihuana establishments must comply with MRTMA and the MRTMA rules, as well as any other applicable state laws or regulations.
2. Co-located establishments are prohibited.
3. Stacked grower licenses are prohibited.
4. Establishments shall be sufficiently screened or buffered with a fence, wall, or landscape screen to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
5. Special use applicants must provide a plan for the storage and disposal of marihuana or chemicals associated with marihuana cultivation, so as to minimize the risk of theft or harm resulting from chemical exposure.

6. No marihuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marihuana overnight in an outdoor waste bin or a secure transport vehicle parked outdoors.
7. Signage for establishments may be approved pursuant to the standards provided in Article XXI, with the additional restriction that establishment signage may not depict marihuana, marihuana-infused products, or marihuana-related paraphernalia.
8. Marihuana establishments must control and eliminate odor as follows:
  - a. Any building in which marihuana is stored, processed, or located must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system.
  - b. The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  - c. The air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufacturers' recommendation to ensure optimal performance.
  - d. Negative air pressure must be maintained inside the building.
  - e. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
  - f. An alternative odor control system is permitted if the special use applicant submits a report by a mechanical engineer licensed in the state of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.
9. The following minimum-distancing regulations apply:
  - a. 1,000 Feet from K-12 Schools (Measured Parcel to Parcel). An establishment may not be located within 1,000 feet of an existing public or private K-12 school. The distance in this subsection is computed by measuring a straight line from the nearest property line of land used for an existing public or private K-12 school to the nearest property line of the parcel used as a marihuana establishment.

b. 100 Feet Setback from Parcel with Dwelling.

1. An establishment building must be set back 100 feet from the property line of any adjacent parcel with an existing Dwelling. This setback requirement applies only to the property line abutting a parcel with an existing Dwelling.
2. If a parcel with an existing Dwelling is located immediately across a street from the parcel with the marihuana establishment, then the establishment building must be set back 100 feet from the property line of the parcel on which the marihuana establishment is located that is closest to the parcel with the existing Dwelling.

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

Operational Requirements

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

- i. Provisioning centers and retailers shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- 11. Special Use Permit Specific to Applicant.
  - a. Any special use permit granted for an adult-use retailer is unique and specific to the applicant and does not run with the land.
- 12. Violations; Remedies; Revocation.

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

- a. If at any time an establishment violates the Zoning Ordinance, any condition imposed through a special use permit, or any other applicable Township ordinance or state law or regulation, the Township may take any or all of the following actions:
  - a. The Township may request that LARA revoke or refrain from renewing the establishment's state operating license.
  - b. Following notice and a public hearing, the Township may revoke the establishment's special use permit.
  - c. The Township may treat the violation as a municipal civil infraction, for which each day the violation continues will be a separate offense, and impose the following fines:  
  
First violation = \$500  
Second offense = \$2,500  
Each subsequent offense = \$5,000
  - d. The Township may seek other appropriate and proper remedies, including actions in law or equity.

#### **Section 4. Publication and Effective Date.**

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

**Section 5. Severability; Repeal of Prior Ordinances.**

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

YEAS: Board Member(s) 6  
NAYS: Board Member(s) 0  
ABSTAIN: Board Member(s) 0  
ABSENT: Board Member(s) 1


**CERTIFICATION**

As the Township Clerk of the Township of South Haven, Van Buren County, Michigan, I certify this is a true and complete copy of an ordinance adopted by the Township Board at a regular meeting held on April 12, 2023.

Date: April 12, 2023

  
Township Supervisor

Date: April 12, 2023

  
Township Clerk

Introduced: 3/9, 2023  
Adopted: 4/12, 2023  
Published: 4/21, 2023  
Effective: 4/28, 2023