

February 5, 2018

To:

Brian

From:

Rockelle
Bentaber

Tobacco Insp. Clerk

Here is the info you wanted.

Quinnance # 17-01 # 17-02

Rockelle

1-248-671-5329

**TOWNSHIP OF TOBACCO
COUNTY OF GLADWIN, STATE OF MICHIGAN**

ORDINANCE NO. [#] 17-021
ADOPTED: 11-13-17
EFFECTIVE: 12-12-17

MEDICAL MARIHUANA FACILITIES ORDINANCE

An ordinance amending the Zoning Ordinances for Tobacco Township for the regulation and licensing of certain aspects of Medical Marihuana Facilities pursuant to the Licensing Act under MCL 33.27101, *et seq.*

Tobacco Township of Gladwin County hereby ordains:

Section 1 - Purpose

Tobacco Township finds that it is in the public interest to allow the permitting of State licensed medical Marihuana facilities within its boundaries pursuant to Public Act 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq.*

Section 2 - Conflict.

Nothing in this ordinance shall be construed in such a manner as to conflict with the existing Township ordinances except as otherwise stated herein.

Section 3 - Definitions

Definitions.

- (1) *Grower* mean 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.

Class A Grower shall be defined as a grower with no more than five hundred (500) marihuana plants.

Class B Grower shall be defined as a grower with no more than one thousand (1000) marihuana plants.

Class C Grower shall be defined as a grower with no more than fifteen hundred (1500) marihuana plants.

- (2) ***Licensee* means a person holding a state operating license.**
- (3) ***Marihuana* means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.**
- (4) ***Marihuana facility* means a location at which a license holder is licensed to operate under this act.**
- (5) ***Marihuana plant* means any plant of the species *Cannabis sativa* L.**
- (6) ***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.**
- (7) ***Michigan medical Marihuana act* means the Michigan medical Marihuana act, 2008 IL, MCL 333.26421 to 333.26430.**
- (8) ***Paraphernalia* means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacture, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, Marihuana.**
- (9) ***Person* means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.**
- (10) ***Plant* means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.**
- (11) ***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.**
- (12) ***Provisioning center* means a licensee that is a commercial entity located in this state that purchases Marihuana from a grower or processor and sell, 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 caregivers. A non-commercial 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, 2008 IL 1, MCL 333.26421 to 333.26430, is not a provisioning center for purposes of this act.

- (13) *Registered primary caregiver* means a primary caregiver who has been issued a current registry identification card under the Michigan medical Marihuana act.
- (14) *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.
- (15) *Registry identification card* means that term as defined in section 3 of the Michigan medical Marihuana act. MCL 333.26423.
- (16) *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.
- (17) *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.
- (18) *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:
 - (a) A grower.
 - (b) A processor.
 - (c) A secure transporter.
 - (d) A provisioning center.
 - (e) A safety compliance facility.
- (19) *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 hours basis for all of the following:

- (a) Verifying registry identification cards.
- (b) Tracking Marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (c) 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.

Section 4 - State Licensed Medical Marihuana Facilities

The purpose of this section is to establish standards for siting Medical Marihuana Facilities. It is the Township's intent to permit the siting of Medical Marihuana Facilities within its boundaries, subject to conditions, to:

- (1) Promote the safe, regulated manufacturing, production, and sale by state-licensed facilities of medical Marihuana, and to ensure the safe access to medical Marihuana to the Township's patients;
- (2) Discourage the sale of unsafe and unlicensed medical Marihuana products;
- (3) Preserve and protect the health, safety, and welfare of the residents of the Township and the general public by minimizing unsafe and unregulated medical Marihuana production and sale;
- (4) Establish standards and procedures by which the siting, operating, and maintaining of a Medical Marihuana Facility shall be governed.

Section 5 – Applicability and Enabling Provision

- (1) Pursuant to section 205(1) of the Act, the Township will authorize permits for the following types of Marihuana facilities:
 - (a) Growers: Not more than three (3) growers total shall be authorized in the Township as follows:

Not more than one (1) Class A grower may be authorized.

Not more than one (1) Class B grower may be authorized.

Not more than one (1) Class C grower may be authorized.

- (b) Processors: No more than one (1) processor shall be authorized in the Township.**
 - (c) Provisioning Centers: No more than one (1) provisioning center shall be authorized in the Township.**
 - (d) Safety Compliance Facilities: No more than one (1) safety compliance facility shall be authorized in the Township.**
 - (e) Secure Transporters: No more than two (2) secure transporters shall be authorized in the Township.**
- (2) No person or entity that was open or operating any facility purporting to produce, manufacture, test, transfer, or transport medical marihuana or marihuana prior to the adoption of this ordinance by the Township Board shall be considered a lawful use of lawful nonconforming use.**
- (3) This section does not apply to, or regulate any protected patient or caregiver conduct pursuant to the Michigan Medical Marihuana Act of 2008.**

Section 6 – Permit Requirement Subject to Special Use Approval

- (1) Any person or entity that wishes to operate as a Marihuana Facility in Tobacco Township shall obtain a permit and must obtain a State Operating License prior to opening and operating.**
- (2) The application an inspection fee for the permit required by this section shall be as set from time to time by the Township Board by resolution.**
- (3) In addition to an annual reapplication and inspection fee, the Township may assess an annual fee of no more than \$5,000.00 to help defray the administrative and enforcement costs associated with the operation of the Marihuana Facilities within Tobacco Township.**
- (4) No Permit issued under this section shall be transferrable unless first approved by the State Medical Marihuana Licensing Board.**
- (5) All Permits under this section shall be renewed annually and subject to annual inspection and renewal fees as set from time to time by the Township by resolution.**

- (6) The Township has limited the number of Permits issued under this section to one per category but may revise this limit from time to time.
- (7) No person or entity that has opened or operated a facility doing business or purporting to do business under this chapter or the Act without first obtaining a Permit shall be eligible for a Permit.
- (8) A person or entity that receives a Permit under this chapter shall display its Permit and, when issued, its State Medical Marihuana Facility License in plain view clearly visible to Township officials and State Medical Marihuana Licensing Board authorized agents.

Section 7 – Restrictions

Uses licensed and permitted under Act 281 of 2016 being Medical Marihuana Growers, Processors, and Provisioning Centers, are permitted as a Special Use as long as the facility is licensed by the State and meets the following requirements:

- (1) Processors must be located in the Agricultural or Commercial (Zoning District or Restrictions) as a Special Use.
- (2) Provisioning Centers must be located in the Agricultural or Commercial (Zoning District or Restrictions) as a Special Use.
- (3) Growers must be located in an Industrial or Agricultural District within the Township as a Special Use.
- (4) Safety Compliance Facilities must be located in the Industrial, Commercial or Agricultural District within the township as Special Use.
- (5) Secure Transporters must be located in the Agricultural or Commercial District within the Township as a Special Use.
- (6) The Applicant location shall meet all applicable written and duly promulgated standards of the Township and, prior to opening, shall demonstrate to the Township that it meets the rules and regulations promulgated by the State Medical Marihuana Facilities Licensing Board.
- (7) The Applicant location shall conform to all standards of the zoning district in which it is located.
- (8) No person shall reside in or permit any person to reside in or on the premises of a Marihuana Facility.

(9) All medical Marihuana license activity shall comply at all times with the Medical Marihuana Act, Public Act 281 of 2016 and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.

(10) Cultivation shall be conducted so as not to create dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way.

(11) A medical Marihuana cultivation facility shall not be located within 1000 feet of any church, state-licensed daycare facility, public library, public park, preschool, elementary school, middle school, high school or public recreation facility "and proximity to a residential zoning district to be set by the Planning Commission on a case-by-case basis".

(12) A medical Marihuana cultivation facility shall obtain a zoning compliance certificate and if the applicant is not the owner of the parcel, such certificate shall include the property owner's consent to the use of the parcel as a medical Marihuana cultivation facility.

(13) No transfer of medical Marihuana shall occur except medical Marihuana plants pursuant to the Michigan Medical Marihuana Act.

(14) No medical Marihuana cultivation facility may be established, operated, or maintained within 500 feet of any other medical Marihuana cultivation facility.

(15) Distance limitations shall be measured in a straight line from the respective parcel or lot line of both the subject parcels and/or parcels zoned residential or occupied by special uses specified in this subsection.

(16) No person under 18 years will be admitted to the facility without his or her parent or legal guardian.

Section 8 – Application procedure

(1) All Applicants for Permits required by this section shall file an application with the Clerk. This application shall be signed by the Applicant if an individual, or by all partners of a partnership, by a managing member if a limited liability company, or by the president of a corporation.

(2) The Applicant may be requested to provide any information required by the Act and any other information deemed by the Township to be required for the consideration of a Permit.

(3) The Permit shall be approved if the Applicant meets all Township requirements unless a due diligence investigation discloses tangible

evidence that the conduct of the Applicant's business would pose a substantial threat to the public health, safety, or general welfare.

Section 9 – Revocation and Review

- (1) A Permit granted under this section may be revoked for any of the following reasons:
 - A. Any fraud or misrepresentation contained in the Permit application;
 - B. Any knowing violation of this ordinance;
 - C. Loss of the Applicant's state Medical Marihuana Facility License;
 - D. Failure of the Applicant to obtain a State Medical Marihuana Facility License within a reasonable time after obtaining a Permit under this section; or
 - E. Conducting business in an unlawful manner or in such a way as to constitute a menace to the health, safety, or general welfare of the public.
- (2) If the Planning Commission denies a site plan, application for Permit, or both, the Applicant shall be entitled to prompt review by the Zoning Board of Appeals as set forth in 1503 of the Tobacco Township Zoning Ordinances.

Section 10 - Repealed

All ordinance or parts of ordinances of the Township in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Passed by Tobacco Township Board of Commissioners, Gladwin County, State of Michigan on 11-13, 2017 at its regular meeting with 5 commissioners in attendance, 5 voting aye, 0 voting nay. Adopted by the Tobacco Township Board of Commissioners, Gladwin County this 13 day of November, 2017.

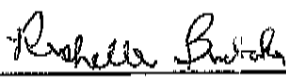
Signed: 
Craig Bergman, Supervisor

CERTIFICATION

I hereby certify that the foregoing was duly adopted by the Tobacco Township Board of Commissioners, Gladwin County Michigan, at its regular meeting on the 13 day of Nov., 2017, that of 5 members of the Tobacco Township Board of Commissioners, 5 were in attendance and 5 voted for the adoption of the Ordinance. I hereby certify that the above and foregoing ordinance is recorded in the Ordinances for Tobacco Township.

EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following date of publication as required by law.


Roshelle Brubaker, Clerk

**TOWNSHIP OF TOBACCO
COUNTY OF GLADWIN, STATE OF MICHIGAN**

**ORDINANCE NO. 17-01
ADOPTED: October 9th 2017
EFFECTIVE: November 16th 2017**

MEDICAL MARIHUANA FACILITIES ORDINANCE

An ordinance to provide a title for the ordinance; to define words; to authorize the operation of and provide regulations for medical marihuana facilities in Tobacco Township pursuant to Public Act 281 of 2016, as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

**THE TOWNSHIP OF TOBACCO
GLADWIN COUNTY, MICHIGAN**

ORDAINS:

**SECTION I
TITLE**

This ordinance shall be known as and may be cited as the Tobacco Township Medical Marihuana Facilities Ordinance.

**SECTION II
DEFINITIONS**

Words used herein shall have the definitions as provided for in PA 281 of 2016, as may be amended.

**SECTION III
AUTHORIZED MEDICAL MARIHUANA FACILITIES**

1. The following medical marihuana facilities may be authorized to operate within the Township by the holder of a state operating license, subject to compliance with PA 281 of 2016, as may be amended, the Rules promulgated thereunder and this ordinance:

- a) Not more than 3 grower(s) shall be authorized in the Township, which number shall include all of the following Class A, Class B and Class C growers authorized in the Township:
 - 1. Not more than 1 Class A growers (500 marihuana plants) may be authorized in the Township.
 - 2. Not more than 1 Class B growers (1,000 marihuana plants) may be authorized in the Township.
 - 3. Not more than 1 Class C growers (1,500 marihuana plants) may be authorized in the Township.
- b) Not more than 1 processor(s) shall be authorized in the Township.
- c) Not more than 1 provisioning center(s) shall be authorized in the Township.
- d) Not more than 1 safety compliance facility(ies) shall be authorized in the Township.

- e) Not more than 2 secure transporter(s) shall be authorized in the Township.
2. On and after December 1 2017, the Township shall accept applications for authorization to operate a medical marihuana facility within the Township. Application shall be made on a Township form and must be submitted to the Township Clerk and/or other designee of the Township Board (hereinafter referred to as "Clerk"). Once the Clerk receives a complete application including the initial annual medical marihuana facility fee, the application shall be time and date stamped. Complete applications shall be considered for authorization in consecutive time and date stamped order. Upon consideration, if the facility type authorization is available within the number specified above, then the applicant shall receive conditional authorization to operate such medical marihuana facility within the Township. Once the limit on the number of an authorized facility is conditionally reached, then any additional complete applications shall be held in consecutive time and date stamped order for future conditional authorization. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Clerk at any time and receive refund of the initial annual medical marihuana fee submitted.
3. Within thirty days from conditional authorization from the Township or from December 15, 2017, whichever is later, the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied for prequalification from the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.
4. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.
5. A conditionally authorized applicant shall receive full authorization from the Township to operate the medical marihuana facility within the Township upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the medical marihuana facility in the Township and the applicant has met all other requirements of this ordinance for operation including but not limited to any zoning approval for the location of the facility within the Township.
6. If a conditionally authorized applicant fails to obtain full authorization from the Township within one year from the date of conditional authorization, then then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein. The Township Board shall have authority to extend the deadline to obtain full authorization for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Township Board finding good cause for the extension.

SECTION IV
GENERAL REGULATIONS REGARDING
AUTHORIZED MEDICAL MARIHUANA FACILITIES

1. An authorized medical marihuana facility shall only be operated within the Township by the holder of a state operating license issued pursuant to PA 281 of 2016, as may be amended, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.
2. Prior to operating an authorized medical marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township zoning ordinance regulations. The facility shall only be operated as long as it remains in compliance with all Township zoning ordinance regulations.
3. Prior to operating an authorized medical marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township construction and building ordinances, all other Township ordinances specifically regulating medical marihuana facilities, and generally applicable Township police power ordinances. The facility shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.

4. An authorized medical marihuana facility shall consent to inspection of the facility by Township officials and/or by the County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.
5. If at any time an authorized medical marihuana facility violates this ordinance the Township Board may request that the state revoke or refrain from renewing the facility's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the Township authorization and the authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.
6. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized medical marihuana facility a vested right, license, privilege or permit to continued authorization from the Township for operations within the Township.
7. The Township expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized medical marihuana facilities authorized to operate within the Township.

SECTION V **ANNUAL MEDICAL MARIHUANA FACILITY FEE**

There is hereby established an annual nonrefundable Township medical marihuana facility fee in the amount of \$5,000 (up to \$5,000), for each authorized medical marihuana facility within the Township, to help defray administrative and enforcement costs associated therewith. An initial annual medical marihuana facility fee of \$ 5,000 (up to \$5,000) shall be payable at the time of application for Township authorization and thereafter the same amount shall be payable each year by the anniversary of the date of full Township authorization to operate the medical marihuana facility.

SECTION VI **VIOLATIONS AND PENALTIES**

1. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court. For purposes of this section, "subsequent offenses" means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person (s) as designated by the Township Board from time to time.

SECTION VII **SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or part hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing ~~medical~~ marihuana facilities pursuant to PA 281 of 2016, as may be amended.

**SECTION VII
REPEAL**

All ordinance or parts of ordinance in conflict herewith are hereby repealed.

**SECTION VIII
EFFECTIVE DATE**

This ordinance shall become ~~effective~~ thirty days after publication ~~and adoption~~.

*Motion by Bergman, supported by Wyee
Ye. Card, Bergman, Wyee & Butler
No. Bladen*