

**ORDINANCE NO. 2017-1  
MEDICAL MARIJUANA FACILITIES**

**An Ordinance to implement the provisions of the Michigan Marijuana Facilities Licensing Act, Public Act 281 of 2016, which authorized the licensing and regulation of Commercial Medical Marijuana Facilities and affords the Township the option whether or not to allow Commercial Medical Marijuana Facilities; to regulate Commercial Medical Marijuana Facilities by requiring a Permit and compliance with requirements as provided in this Ordinance, in order to maintain the public health, safety and welfare of the residents and visitors to the Township; and to regulate the cultivation, distribution and use of Medical Marijuana permitted under the Michigan Medical Marijuana Act, Initiated Law 1 of 2008 in order to maintain the public health, safety and welfare of the residents and visitors to the Township.**

**THE TOWNSHIP OF ELY ORDAINS:**

SECTION 1. Definitions

The following words and phrases shall have the following definitions when used in this Ordinance:

**Application:** means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the person filing the Application shall be known as the *Applicant*.

**Clerk:** means the Ely Township Clerk or his/her designee.

**Commercial Medical Marijuana Facility or Facility:** means one of the following: Provisioning Center, Processor, Secure Transporter, Grower, and Safety Compliance Facility. Each term is as defined in the MMFLA.

**Department:** means the Michigan State Department of Licensing and Regulatory Affairs or any authorized designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Medical Marijuana Facility.

**License:** means a current and valid License for a Commercial Medical Marijuana Facility issued by the State of Michigan.

**Licensee:** means a Person holding a current and valid Michigan License for a Commercial Medical Marijuana Facility.

**Marijuana:** means that term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.

**Medical Marijuana:** means that term as defined in MCL 333.26423.

**Nature Center:** means an area of land set aside and managed for conservation of wildlife, flora, fauna, or features of geological or other special interest, and to provide opportunities for study, research or public outreach.

**Paraphernalia:** means drug paraphernalia as defined in Section 7451 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7451, that is or may be used in association with Medical Marijuana.

**Park:** means and area of public land set aside and maintained for public recreational use, and does not include a “nature center” as defined in Section 1(9) of this Ordinance.

**Patient:** means a “register qualifying patient” or a “visiting qualifying patient” as those terms are defined by MCL 333.26421, et seq.

**Permit:** means a current and valid Permit for a Commercial Medical Marijuana Facility issued under this Ordinance, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.

**Permit Holder:** means the Person that holds a current and valid Permit issued under this Ordinance.

**Permitted Premises:** means the particular building or buildings within which the Permit Holder will be authorized to conduct the Facility’s activities pursuant to the Permit.

**Permitted Property:** means the real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.

**Person:** means a natural person, company, partnership, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.

**Primary Caregiver:** means a Person qualified under MCL 333.26423(g), and the rules promulgated thereunder by the Michigan Department of Community Health, R 333.101. et seq., including, but not limited to possession of a valid, unexpired registry identification card, to assist with a Patient’s medical use of Marijuana, and authorized under the Michigan Medical Marijuana Act (MMMA) to operate as a primary caregiver.

**Primary Caregiver Operation:** means a location where a Primary Caregiver can lawfully operate as permitted by the MMMA and this Ordinance. A Primary Caregiver Operation is not a Commercial Medical Marijuana Facility.

**Public Place:** means any area in which the public is invited or generally permitted in the usual course of business.

**Registry Identification Card:** means the document issued to a Patient or a Primary Caregiver as defined under MCL 333.26423(I).

SECTION 2. Permit Required; Number of Permits Available; Eligibility; General Provisions

1. The Township hereby authorizes the operation of the following types of Commercial Medical Marijuana Facilities, subject to the number of available Permits issued in this Section:
  - a. Growers, Class A
  - b. Growers, Class B
  - c. Growers, Class C
  - d. Processors
  - e. Safety Compliance Facilities
  - f. Secure Transporter Permits

2. The number of Commercial Medical Marijuana Facility Permits in effect at any time shall not exceed the following maximum within the Township:
  - a. Growers, Class A: 0
  - b. Growers, Class B: 0
  - c. Growers, Class C: 0
  - d. Processor Permits: 0
  - e. Safety Compliance Facility Permits: 0
  - f. Secure Transporter Permits: 1

The Township Board may review and amend these numbers by resolution annually or as it determines to be advisable.

3. It shall be unlawful for any person to engage in, or be issued a Permit for the operation of the following Commercial Medical Marijuana Facilities:
  - a. Provisioning Center
4. No person shall operate a Commercial Medical Marijuana Facility at any time or any location within the Township unless a then currently-effective Permit for that person at that location has been issued under this Ordinance.
5. Commercial Medical Marijuana Facilities shall operate only as allowed under this Ordinance.
6. The requirements set forth in this Ordinance shall be in addition to, and not in lieu of any other licensing or permitting requirements imposed by applicable federal, state or local laws, regulation, codes or ordinances.
7. At the time of Application, each Applicant shall pay Application fees, annual fees, renewal fees and inspection fees for Permits to the Township to defray the costs incurred by the Township for inspection, administration and enforcement of the local regulations regarding Commercial Medical Marijuana Facilities. The Township Board shall by resolution set all fees in an amount not to exceed any limitations imposed by Michigan law.
8. A Permit and a Renewal Permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the Application or Permit Holder and shall remain valid only until June 1 immediately following its approval. A completed Application or Renewal Application must be received by the Township Clerk no later than March 31 of each year in order to grant or renew the Permit effective on June 1 of that year.
9. Each year any pending Applications for Renewal or Amendment of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered.

10. It is the sole and exclusive responsibility of each Permit Holder or Person applying to be a Permit Holder at all times during the Application period and during its operation to immediately provide the Township with all material changes in any information submitted on an Application and any other changes that may materially affect any State License or its Township Permit.
11. No Permit issued under this Ordinance may be assigned or transferred to any Person unless the assignee or transferee has submitted an application and all required fees under this Ordinance and has been granted a Permit by the Township Board. No Permit issued under this Ordinance is transferable to any other location except for the Permitted Premises on the Permitted Property.
12. The original Permit issued under this Ordinance shall be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.
13. Acceptance by the Permit Older of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agents and employees for any state, federal or local fire, emergency, or law enforcement personnel to conduct random and unannounced examination of the Facility and all articles of property in that Facility at any time to ensure compliance with this Ordinance, any other local regulation, and with the Permit.
14. A Permit Holder may not engage in any other Commercial Medical Marijuana Facility in the Permitted Premises or on the Permitted Property, or in its name at any other location within the Township, without first obtaining a separate Permit.
15. No Permit shall be granted or renewed for a Commercial Medical Marijuana Facility in a residence or in any area of the Township where the predominant land uses within  $\frac{1}{4}$  mile of the proposed Commercial Medical Marijuana Facility are residential.

### SECTION 3. Other Laws and Ordinances

In addition to the terms of this Ordinance, any Commercial Medical Marijuana Facility shall comply with all Township Ordinances including without limitation the Township Zoning Ordinance and with all other applicable federal, state and local ordinances, laws, codes and regulations. To the extent the terms of this Ordinance are in conflict with the terms of any other applicable federal, state or local ordinances, laws, codes or regulations, the terms of the most restrictive ordinance, law, code or regulation shall control.

### SECTION 4. Application for and Renewal of Permits

1. Application: An Application for a Permit for a Facility shall be submitted to the Clerk and shall contain the following information:
  - a. The name, address, telephone number and email address of the proposed Permit Holder and the proposed Commercial Medical Marijuana Facility;
  - b. The names, home addresses and personal telephone numbers for all owners, directors, officers and managers of the Permit Holder and the Commercial Medical Marijuana Facility;
  - c. One copy of all the following:
    - 1) All documentation showing the proposed Permit Holder's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the Applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Commercial Medical Marijuana Facility.
    - 2) If the proposed Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof of registration with the State of Michigan, and a certificate of good standing.
    - 3) A valid unexpired drivers license or state issued identification for all owners, directors, officers and managers of the proposed Facility.
    - 4) Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.
    - 5) Application for Sign Permit, if any sign is proposed.
    - 6) Non-refundable Application fee.
    - 7) Business and Operation Plan showing in detail the Commercial Medical Marijuana facility's proposed plan of operation, including without limitation the following:
      - i) A description of the type of Facility proposed and the anticipated or actual number of employees.
      - ii) A security plan meeting the requirements of Section 6 of this Ordinance which shall include a general description of the security system(s), current centrally alarmed and monitored security system service agreement for the proposed Permitted Premises, and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.
      - iii) A description by category of all products to be sold.

- iv) A list of Material Safety Data Sheets for all nutrients, pesticides and other chemicals proposed for use in the Commercial Medical Marijuana Facility.
    - v) A description and plan of all equipment and methods that will be employed to show any impact to adjacent uses including enforceable assurances that no odor will be detectable from the outside of the Permitted Premises.
    - vi) A plan for the disposal of Marijuana and related byproducts that will be used at the Facility.
  - 8) An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of Marijuana for the facility.
  - 9) Whether any 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 non-renewal, including the licensing authority, the date each action was taken, and the reason for each action.
  - 10) Signed and sealed (by Michigan registered architect, surveyor or professional engineer) site plan and interior floor plan of the Permitted Premises and the Permitted Property.
  - 11) information regarding any other Commercial Medical Marijuana Facility that the Licensee is authorized to operate in any other jurisdiction within the State, or another State, and the Applicant's involvement in each Facility.
  - d. Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Application.
  - e. Information obtained from the Applicant or proposed Permit Holder is exempt from public disclosure under state law.
2. **Renewal Application:** The same requirements that apply to all new Applications for a Permit apply to all Renewal Applications. Renewal Applications shall be submitted to and received by the Clerk not less than ninety (90) days prior to the expiration of the annual Permit, except that an Application requesting a change in the location of the Permitted Premises shall be submitted and received one hundred twenty (120) days prior to the expiration of the Permit. A Permit Holder whose Permit expires and for which a complete Renewal Application has not been received by the expiration date shall be deemed to have forfeited the Permit under this Ordinance. The Township will not accept Renewal Applications after the expiration date of the Permit.

3. Approval, Issuance, Denial, and Appeal: All inspection, review and processing of the Application shall be completed within ninety (90) days of receipt of a complete Application and all required fees. The Township Board shall approve or deny the Permit within one hundred twenty (120) days of receipt of the completed Application and fees, or within one hundred fifty (150) days if the location of the Permitted Premises is proposed to be amended. The processing time may be extended upon written notice by the Township for good cause, and any failure to meet the required processing time shall not result in the automatic grant of the Permit. Any denial must be in writing and must state the reason(s) for denial. Any final denial of a Permit may be appealed to a court of competent jurisdiction; provided that the pendency of an appeal shall not stay or extend the expiration of any Permit. The Township has no obligation to process or approve any incomplete Application, and any times provided under this Ordinance shall not begin to run until the Township receives a complete Application as determined by the Township Board. A determination of a complete Application shall not prohibit the Township from requiring supplemental information.
4. Applications for New Permits Where No Building is as Yet in Existence: Any Applicant for a Commercial Medical Marijuana Facility Permit whose building is not yet in existence at the time of the Township's initial approval shall have one (1) year immediately following the date of the Township's initial approval to complete construction of the building in accordance with applicable Zoning Ordinances, Building Codes, and any other applicable State or Local Laws, rules or regulations, and to commence business operations.
5. Duty to Supplement:
  - a. If, at any time before or after a Permit is issued pursuant to this Ordinance, any information required in the Permit Application, the MMFLA, or any rule or regulation promulgated thereunder, changes in any way from that which is stated in the Application, the Applicant or Licenses shall supplement such information in writing within ten (10) days from the date upon which the change occurs.
  - b. An Applicant or Permit Holder has a duty to notify the Township Board in writing of any pending criminal charge and any criminal confiscation of a felony or other offense involving a crime of moral turpitude by the Applicant, any owner, principal officer, director, manager or employee within ten (10) days of the event.
  - c. An Applicant or Permit Holder has a duty to notify the Township Board in writing of any pending criminal charge, and any criminal conviction, whether a felony, misdemeanor, petty offense, or any violation of a local law related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of Marijuana by the

Applicant, any owner, principal officer, director, manager, or employee within ten (10) days of the event.

SECTION 5. Operational Requirements – Commercial Medical Marijuana Facilities

A Commercial Medical Marijuana Facility issued a Permit under this Ordinance and operating in the Township shall at all times comply with the following operational requirements which the Township Board may review and amend from time to time as it determines reasonable.

1. Scope of Operation: Commercial Medical Marijuana Facilities shall comply with all respective applicable codes of the local Zoning, Building and Health Departments. The Facility must hold a valid local Permit and State Commercial Medical Marijuana Facility License for the type of Commercial Medical Marijuana Facility intended to be carried out on the Permitted Property. The Facility operator, owner or licensee must have documentation available that local and State sales tax requirements, including holding any licenses, if applicable are satisfied.
2. Required Documentation: Each Commercial Medical Marijuana Facility shall be operated from the Permitted Premises on the Permitted Property. No Commercial Medical Marijuana Facility shall be permitted to operate a moveable, mobile or transitory location, except for a Permitted and Licensed Secure Transporter when engaged in the lawful transport of Marijuana. No person under the age of eighteen (18) shall be allowed to enter into the Permitted Premises without a parent or legal guardian.
3. Security: Permit Holders shall at all times maintain a security system that meets State law requirements and shall also include the following:
  - a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises;
  - b. Robbery and Burglary alarm systems which are professionally monitored and operated twenty-four (24) hours a day, seven (7) days a week.
  - c. A locking safe permanently affixed to the Permitted Premises that shall store all Marijuana and cash remaining in the Facility overnight;
  - d. All Marijuana in whatever form stored at the Permitted Premises shall be kept in a secure manner and shall not be visible from outside the Permitted Premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the Permitted Premises; and
  - e. All security recordings and documentation shall be preserved for at least forty-eight (48) hours by the Permit Holder and made available to any law enforcement agency upon request for inspection.

4. Required Spacing: No Commercial Medical Marijuana Facility shall be located within five hundred (500) feet from any educational institution or school, college or university, church, house of worship or other religious facility, or public or private park, with the minimum distance between uses measured horizontally between the nearest property lines.
5. Amount of Marijuana: The amount of Marijuana on the Permitted Property and under the control of the Permit Holder, owner or operator of the Facility shall not exceed that amount permitted by the State License or the Township's permit.
6. Sale of Marijuana: The Marijuana offered for sale and distribution must be packaged and labeled in accordance with State Law. The Facility is prohibited from selling, soliciting or receiving orders for Marijuana or Marijuana products over the internet.
7. Sign Restrictions: No pictures, photographs, drawings or other depictions of Marijuana or Marijuana paraphernalia shall appear on the outside of any Permitted Premises not be visible outside of the Permitted Premises on the Permitted Property. The words "Marijuana", "cannabis" and any other words used or intended to convey the presence or availability of Marijuana on the Permitted Premises on the Permitted Property.
8. Use of Marijuana: The sale, consumption or use of alcohol or tobacco products on the Permitted Premises is prohibited. Smoking or consumption of controlled substances, including Marijuana on the Permitted Premises is prohibited.
9. Indoor Operation: All activities of Commercial Medical Marijuana Facilities, including without limitation, distribution, growth, cultivation or the sale of Marijuana and all other related activities permitted under the Permit Holder's License or Permit must occur indoors. The Facility's operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the Permitted Premises.
10. Unpermitted Growing: A Patient may not grow his or her own Marijuana at a Commercial Medical Marijuana Facility.
11. Distribution: No person operating a Facility shall provide or otherwise make available Marijuana to any person who is not legally authorized to receive Marijuana under State Law.
12. Permits: All necessary building, electrical, plumbing and mechanical permits must be obtained for any part of the Permitted Premises in which electrical,

wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marijuana are located.

13. Waste Disposal: The Permit Holder, owner and operator of the Facility shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.
14. Transportation: Marijuana may be transported by a Secure Transporter within the Township under this Ordinance and to effectuate its purpose only:
  - a. By Persons who are otherwise authorized by state law to possess Marijuana for medical purposes;
  - b. In a manner consistent with all applicable State laws and rules, as amended;
  - c. In a secure manner designed to prevent the loss of the Marijuana;
  - d. No vehicle used for the transportation or deliver of Marijuana under this Ordinance shall have for markings the words “Marijuana”, “cannabis” or any similar words, pictures or other renderings of the Marijuana plant, advertisements for Marijuana or for its sale, transfer, cultivation, delivery, transportation or manufacture, or any other word, phrase or symbol indicating or tending to indicate that the vehicle transporting Marijuana;
  - e. No vehicle may be used for the ongoing or continuous storage of Marijuana, but may only be used incidental to and in furtherance of the transportation of Marijuana.
15. Additional Conditions: The Township Board may impose such reasonable terms and conditions on a Commercial Medical Marijuana Facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.

## SECTION 6. Penalties and Consequences for Violation

In addition to any other penalties or legal consequences provided under applicable federal, state and local law, regulations, codes and Ordinances:

1. Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of the requirements of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00), or imprisoned for not more than ninety (90) days, or both, and in addition, shall pay all costs and expenses involved. Each day such violation continues shall be considered a separate offense.

2. The owner of record or tenant of any building, structure or premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in or maintains such violation may each be found guilty or responsible of a separate offence and suffer the penalties and forfeitures provided in subsection, except as excluded from responsibility by State Law.
3. In addition to any other remedies, the Township may institute proceeds for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, jail sentence or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.

SECTION 7. Severability

The provisions of this Ordinance are hereby declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

SECTION 8. Effective Date

This Ordinance shall take effect thirty (30) days following publication or posting after final adoption by the Township Board.

At a Public Hearing held at the Ely Township Hall on November 28, 2017 at 6pm, Township Board Member Trustee Scott Perry moved to adopt the Medical Marijuana Facilities Ordinance. The Motion was supported by Trustee Ted Pepin. Roll Call Vote:

Ayes: Perry, Pepin, Grund, Wing, Johnson  
Nays: None

Supervisor Johnson declared this Ordinance adopted.

Certified by:

Kim D. Wing  
Ely Township Clerk  
11/28/2017