

**STATE OF MICHIGAN
COUNTY OF MARQUETTE
ELY TOWNSHIP**

**MEDICAL MARIJUANA FACILITIES AND
ADULT USE RECREATIONAL MARIJUANA ESTABLISHMENTS
LICENSING AND REGULATORY ORDINANCE**

Ordinance No. 2023-1

An ordinance adopted to allow, license and regulate certain Medical Marijuana Facilities and Adult Use Recreational Marijuana Establishments within Ely Township for the protection of the health, safety and welfare of Ely Township residents and visitors.

THE TOWNSHIP OF ELY ORDAINS:

SECTION 1: PURPOSE.

- A. The purpose of this Ordinance is to authorize certain Medical Marijuana Facilities and Adult Use Recreational Marijuana Establishments in Ely Township; to issue Permits for such facilities and establishments; to provide reasonable regulations to protect the public health, safety and general welfare of the community at large; to retain the character of neighborhoods; and to minimize potential impacts on surrounding properties and persons. It is also the intent of this Ordinance to help defray administrative and enforcement costs associated with the operation of Medical Marijuana Facilities and Adult Use Recreational Marijuana Establishments in Ely Township through imposition of an annual, non-refundable fee of not more than \$5,000.00 upon each Medical Marijuana Facility licensee, and on each Adult Use Recreational Marijuana Establishment licensee pursuant to the authority granted by the Medical Marijuana Facilities Licensing Act (MMFLA), MCL 333.27101, et seq., and the Michigan Regulation and Taxation of Marijuana Act (MRTMA), MCL 333.27951, et seq.
- B. Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale or distribution of Marijuana, in any form, that is not in compliance with the MMFLA; the MRTMA; the Michigan Medical Marijuana Act (MMA), MCL 333.26421, et seq.; the Marijuana Tracking Act (MTA), MCL 333.27901, et seq.; the rules and regulations issued by the Michigan Department of Licensing and Regulatory Affairs Cannabis Regulatory Agency (CRA); and all other applicable statutes, rules, or regulations promulgated by the State of Michigan.

SECTION 2: INTERCHANGABLE USE OF “MARIHUANA” AND “MARIJUANA.” The terms “Marihuana,” as sometimes spelled by the State of Michigan, and “Marijuana” are synonymous and may be used interchangeably without difference or distinction.

SECTION 3: DEFINITIONS. The following words and phrases shall have the following definitions when used in this Ordinance:

- A. **Adult Use Recreational Marijuana Establishment:** means one of the following: Grower (Class A, B or C), Excess Grower, Processor, Safety Compliance Facility, Retailer, Secure Transporter, Marijuana Microbusiness, Marijuana Event Organizer, Temporary Marijuana Event or Designated Consumption Facility. Each term is as defined in the MRTMA.
- B. **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.”
- C. **Clerk:** means the Ely Township Clerk or his/her designee.
- D. **Commercial Medical Marijuana Facility:** means one of the following: Grower (Class A, B or C), Processor, Provisioning Center, Safety Compliance Facility or Secure Transporter. Each term is as defined in the MMFLA.
- E. **Conditional Use Permit:** means a permit issued following a public hearing conducted by the Ely Township Planning Commission with such conditions and safeguards attached as deemed necessary for the protection of the public health, safety and welfare, pursuant to the authority granted by Section 504 of the Michigan Zoning Enabling Act, MCL 125.3504, and Article VII of the Ely Township Zoning Ordinance.
- F. **Department:** means the Michigan State Department of Licensing and Regulatory Affairs or any designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Medical Marijuana Facility or an Adult Use Recreational Marijuana Establishment.
- G. **License:** means a current and valid License for a Commercial Medical Marijuana Facility or an Adult Use Recreational Marijuana Establishment issued by the State of Michigan.
- H. **Licensee:** means a Person holding a current and valid Michigan License for a Commercial Medical Marijuana Facility, an Adult Use Recreational Marijuana Establishment, or both.

- I. **“Marijuana” or “Marihuana”:** means that term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.
- J. **Marijuana Business:** means a Commercial Medical Marijuana Facility under the MMFLA or an Adult Use Recreational Marijuana Establishment under the MRTMA, or both, pursuant to R 420.1(q) of the March 20, 2022, Rules adopted by the Cannabis Regulatory Agency of the Michigan Department of Licensing and Regulatory Affairs, and as may periodically be amended hereafter.
- K. **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.
- L. **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 Marijuana.
- M. **Park:** means an area of public land set aside and maintained for public recreational use, and does not include a “nature center” as defined in Section 3(K) of this Ordinance.
- N. **Patient:** means a “registered qualifying patient” or a “visiting qualifying patient” as those terms are defined by MCL 333.26421, et seq.
- O. **Permit:** means a current and valid Permit for a Commercial Medical Marijuana Facility or an Adult Use Recreational Marijuana Establishment 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.
- P. **Permit Holder:** means the Person that holds a current and valid Permit issued under this Ordinance.
- Q. **Permitted Premises:** means the particular building or buildings within which the Permit Holder will be authorized to conduct the Facility’s or Establishment’s activities pursuant to the Permit.
- R. **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.
- S. **Person:** means a natural person, partnership, profit or non-profit corporation, limited liability company, joint venture for a common purpose or any other legal entity.

- T. **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 Marihuana Act (MMMA) to operate as a Primary Caregiver.

- U. **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.

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

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

- X. **Township:** means the Township of Ely, a Township organized and existing pursuant to Article VII, Section 17, of the Michigan Constitution of 1963, located in Marquette County, Michigan.

SECTION 4: PERMIT REQUIRED, NUMBER OF PERMITS AVAILABLE, ELIGIBILITY AND GENERAL PROVISIONS.

- A. The Township hereby authorizes the operation of the following types of Commercial Medical Marijuana Facilities and Adult Use Recreational Marijuana Establishments, subject to the number of available Permits issued, as set forth below:

| Permit Type – Medical Marijuana Facilities: | Permits Allowed | Zoning District |
|--------------------------------------------------------|----------------------------|----------------------------|
| Grower, Class A | 0 | — |
| Grower, Class B | 0 | — |
| Grower, Class C | 0 | — |
| Processor | 0 | — |

| | | |
|----------------------------|---|-----------------------------|
| Provisioning Center | 0 | — |
| Safety Compliance Facility | 0 | — |
| Secure Transporter | 1 | Town Development (TD) |

| Permit Type - Adult Use Recreational Marijuana Establishments: | Permits Allowed | Zoning District |
|-------------------------------------------------------------------------------|----------------------------|-----------------------------|
| Grower, Class A | 0 | — |
| Grower, Class B | 0 | — |
| Grower, Class C | 0 | — |
| Grower, Excess | 0 | — |
| Processor | 0 | — |
| Safety Compliance Facility | 0 | — |
| Marijuana Retailer | 0 | — |
| Secure Transporter | 1 | Town Development (TD) |
| Marijuana Microbusiness | 0 | — |
| Marijuana Event Organizer | 0 | — |
| Temporary Marijuana Event | 0 | — |
| Designated Consumption Establishment | 0 | — |

The Township Board may periodically review and adjust these numbers by amendment of this Ordinance or as it determines to be advisable. Even if the numbers are not adjusted, the Township Board's findings shall be recorded in the Minutes of

the relevant meeting of the Township Board. Such revisions shall not be the basis for termination or non-renewal of a Permit previously issued.

- B. All Marijuana Businesses require a Conditional Use Permit under Article VII of the Ely Township Zoning Ordinance. A Permit Holder must adhere to all conditions of a Conditional Use Permit.
- C. It shall be unlawful for any person to engage in or be issued a Permit for the operation of any type of Marijuana Business, Facility or Establishment not expressly authorized above. Nothing herein shall be construed to restrict the transportation of Marijuana through Ely Township by a Secure Transporter or by other lawful means.
- D. No person shall operate a Marijuana Business, Facility or Establishment at any time or in any location within the Township unless an effective Permit for that person at that location has been issued under this Ordinance. A Permit is nontransferable to a different location.
- E. Marijuana Businesses shall operate only as allowed under this Ordinance.
- F. 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.
- G. A non-refundable Township Permit Application fee shall be paid by each Applicant for a Township Permit to operate any Marijuana Business in the Township. The nonrefundable fee shall be in an amount of not more than \$5,000.00 as set by Resolution of the Township Board, and which may from time to time be amended. The fee shall be paid with the Initial Application, as well as with each subsequent Annual Renewal Application. The annual Application fee is for the purpose of helping defray administrative and enforcement costs associated with the operation of a Marijuana Business, Facility, or Establishment in the Township.
- H. A Permit or Renewal Permit shall remain valid only for one year following its approval.
- I. A Permit and a Renewal Permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the Applicant or Permit Holder.
- J. Each year any pending Applications for Renewal, Amendment or transfer of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered.

- K. 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 the Township Permit.
- L. No Permit issued under this Ordinance may be assigned or transferred to any person unless the assignee or transferee has submitted an Application, all required fees under this Ordinance have been paid and the Township Board has granted the Application to transfer the Permit. No Permit issued under this Ordinance is transferable to any other location except for the Permitted Premises on the Permitted Property.
- M. Any Permit issued under this Ordinance shall be prominently displayed at the Permitted Premises in a location where it can be easily viewed by law enforcement and administrative authorities.
- N. Acceptance of a Permit by the Permit Holder constitutes consent by the Permit Holder and its owners, officers, managers, agents and employees for any State, federal or local fire 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 regulations and with the Permit.
- O. A Permit Holder may not engage in any other Marijuana Business 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.

SECTION 5: OTHER LAWS AND ORDINANCES.

In addition to the terms of this Ordinance, any Marijuana Business shall comply with all Township Ordinances including without limitation the Ely Township Zoning Ordinance now in effect, or as hereafter adopted or amended. Every Marijuana Business shall comply with the provisions of the MMFLA, the MRTMA, the MTA, the rules and regulations issued by the Michigan Department of Licensing and Regulatory Affairs Cannabis Regulatory Agency and all other applicable statutes, rules or regulations promulgated by the State of Michigan, then in effect.

SECTION 6: APPLICATION FOR, RENEWAL OF AND TRANSFER OF PERMITS.

- A. Application. An Application must be submitted for each and every single Permit or Marijuana Business type which may be operated within the Township. An Application

shall be submitted to the Clerk's Office, located at 1555 County Road 496, Ishpeming, Michigan 49866.

- B. Pre-Qualification. Every Person who applies for a Township Permit to operate a Marijuana Business, Facility or Establishment is encouraged to first apply for and obtain a finding of prequalification status from the Michigan Department of Licensing and Regulatory Affairs Cannabis Regulatory Agency, as authorized by R 420.3(2) of the Rules promulgated by that Agency, and as may subsequently be amended.
- C. Contents. An Application for a Permit shall, at a minimum, contain the following information:
1. The name, address, phone number and e-mail address of the Applicant or Permit Holder and the proposed Marijuana Business Permit sought by the Applicant;
 2. The names, physical home addresses, mailing addresses, dates of birth, social security numbers and personal phone numbers for all owners, partners, directors, officers and managers of the Permit Holder and the Marijuana Business;
 3. One (1) copy of all the following:
 - a. All documentation showing the Applicant'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 Marijuana Business, Facility or Establishment.
 - b. If the Applicant 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), a statement of all owners and their percentage of ownership in the company or corporation accounting for 100% of the ownership interest in the Applicant, proof of registration with the State of Michigan and a Certificate of Good Standing.
 - c. A valid, unexpired driver's license or state issued photo ID for all owners, directors, officers and/or managers of the proposed Marijuana Business.
 - d. Evidence of a valid sales tax license for the business if such a license is required by State law or local regulations.

- e. Application for Sign Permit, if any sign is proposed.
- f. Non-refundable Application fee per Permit.
- g. Business and Operations Plan, showing in detail the Marijuana Business' proposed plan of operation, including without limitation, the following:
 - i. A description of the type of Facility or Establishment proposed and the anticipated or actual number of employees.
 - ii. A security plan meeting the requirements of this Ordinance, which shall include a general description of the security systems(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 grown, processed, sold or transported.
 - iv. All Material Safety Data Sheets for any nutrients, pesticides and other chemicals proposed for use in the Marijuana Business.
 - v. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detectable at the property line of the Permitted Premises.
 - vi. A plan for the disposal of Marijuana and related byproducts that will be used at the Business, Facility or Establishment.
- h. A site plan and interior floor plan of the Permitted Premises and the Permitted Property.
- i. An identification of any other business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of Marijuana for the Business, Facility or Establishment.
- j. Whether any Applicant, owner, partner, director, officer or manager of the Applicant or any entity owned or controlled by any owner, partner, director, officer or manager of the Applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked or not renewed and a statement

describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation or nonrenewal, including the licensing authority, the date each action was taken and the reason for each action.

- k. A complete list of all Marijuana Permits and Licenses held by the Applicant or any owner, partner, director, officer or manager of the Applicant or any entity owned or controlled in whole or part by any owner, partner, director, officer or manager of the Applicant, whether Marijuana Facilities or Establishments, including complete copies of the issued Permits and Licenses.
 - l. Information regarding any other Marijuana Business, Facility or Establishment similar Permit or License, or any other Marijuana Business or venture that the Applicant or any owner, partner, director, officer or manager of the Applicant or any entity owned or controlled in whole or part by any owner, partner, director, officer or manager of the Applicant is authorized to operate in any other jurisdiction within the State, or another state, and their involvement in each.
 - m. An official statement issued by the Department of Licensing and Regulatory Affairs Cannabis Regulatory Agency (CRA), or its successor, that the Applicant has either: (a) applied for prequalification status from the CRA on the date of its Permit application to the Township or (b) proof of prequalification status from the CRA for the Applicant.
- 4. Designation of at least one emergency contact person with full address, phone number(s) and email contact information who will be on call for immediate availability if the need arises, after Permit is granted.
 - 5. Any other information requested by the Township relevant to the processing or consideration of the Application.
 - 6. Applicant and all related Persons acknowledge and consent to a background check and investigation by the Township as a condition of the Township processing and reviewing the Application for approval or denial of a Permit.
 - 7. A Renewal Application or Co-location Application may expressly incorporate by reference information or documentation contained in the original Permit Application or prior Permit Renewal Application, making it clear where such information or documentation can be found, provided that the information or documentation has not changed.
- D. 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. 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.

- E. Transfer Application. Any unauthorized transfer or attempted transfer of a Permit or ownership interest by or in a Permit Holder constitutes a violation of this Ordinance.
1. The same requirements that apply to all new Applications for a Permit apply to all Applications to transfer, sell or otherwise convey an existing Permit to a new legal entity or individual(s). The person or entity holding the Permit shall also submit a certified copy of the meeting minutes of the board of directors or members authorizing the transfer, sale or conveyance of the Permit or, if the Permit Holder is a natural person, a notarized statement or other proof satisfactory to the Township authorizing the transfer. Only after the transferee has applied for and obtained approval for the transfer, including without limitation the payment of the same fees for the transferred Permit as applies for a new Permit, may the Permit be transferred.
 2. No Permit Holder shall transfer, sell or otherwise convey any ownership interest in the entity holding the Permit without the express approval of the Township Board after submitting a Transfer Application under this Ordinance. The transferee Applicant and Permit Holder must submit a change in control Transfer Application to the Clerk prior to any sale or transfer of stock or membership interest. The Application shall include at a minimum all information and documents listed in Section 6(C) of this Ordinance.
 3. If, prior to the approval of an Application, an individual Applicant wishes to substitute a different person as Applicant; or an Applicant that is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, seeks to undergo a change in ownership, the current Applicant may submit a written request to the Clerk to amend the Application. Upon approval by the Clerk, the current Applicant may amend the Application to reflect such a change in identity or ownership, provided that the substituted Applicant(s) submits any documents required for a new Permit under this Ordinance. The Township Board may set a fee by resolution for such a change.
 4. The following actions constitute transfer of ownership and require a Transfer Application, Application fee, and Township Board approval:
 - a. Persons. Any transfer of an ownership interest in an Applicant or Permit Holder between Persons constitutes a transfer of ownership.
 - b. Corporations. Any transfer of stock or any change in principal officers or directors of any corporation holding a Permit constitutes a transfer

of ownership.

- c. Limited Liability Companies. Any transfer of membership interest or any change in managing members or change in the interest held by any managing members(s) of any limited liability company holding a Permit constitutes a transfer of ownership.
- d. Partnerships. Any transfer of a partnership interest or any change in general or managing partners of any partnership holding a Permit constitutes a transfer of ownership.
- e. Assets. Any transfer of the assets held by an Applicant or Permit Holder within the Township outside the ordinary course of business constitutes a transfer of ownership.

F. Approval, Issuance, Denial and Appeal.

- 1. All inspections, and review and processing of the Application, including Transfer Applications, 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. If the Application is approved, then the Permit shall be issued to the Applicant as the Permit Holder.
- 2. 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.
- 3. If at any time there are a greater number of Applications for Permits than there are available Permits for the type of Marihuana Business being applied for within the Township, the Township shall decide among competing Applications by a competitive process intended to select the Applicants who are the best suited to operate within the Township.
- 4. 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.
- 5. Any final denial of a Permit may be appealed to a court of competent jurisdiction within twenty-one (21) days from the date the decision was served by ordinary mail; provided that: (1) with respect to a denial of a new Permit, the pendency of an appeal shall not have the effect of granting rights to an Applicant, subject to an order of the court; and (2) with respect to a

Renewal Application, provided that the Applicant has paid all required fees (and any additional fees required during the pendency of the appeal), the pre-existing Permit shall be extended during the pendency of the appeal, unless otherwise ordered by a court. Further provided, however, that nothing herein shall be deemed to modify or create any additional appeal rights beyond those procedures set forth in the Ely Township Zoning Ordinance with regard to site plan review, application, or denial of Conditional Use Permits, zoning variances, or other matters specifically addressed by the Ely Township Zoning Ordinance.

- G. No Building Currently Existing. Any Applicant for a Marijuana Business 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 commence 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.
- H. Effect of Transfer. Immediately following the approval of a transfer by the Township Board, transferee(s) will obtain all the interests, rights, obligations and responsibilities of the previous Permit Holder. Once a Permit Holder has transferred his or her ownership interest, any privileges enjoyed by that Permit Holder under this Ordinance are terminated. For transfers where no building is yet in existence, the deadline for construction may be extended to one year immediately following the date the transfer is effectuated, but construction must commence within three years after the Township's initial approval of the Permit, regardless of any subsequent transfers.
- I. Duty to Supplement.
 - 1. If at any time before or after a Permit is issued pursuant to this Ordinance any information required in the Permit Application, the MMFLA, the MRTMA or any rule or regulation promulgated thereunder changes in any way from that which is stated in the Application, the Applicant or Licensee shall supplement such information in writing within thirty (30) days from the date upon which such change occurs.
 - 2. An Applicant or Permit Holder has a duty to notify the Township Board in writing of any pending criminal charge and any criminal conviction 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 date when the Applicant, any owner, officer, director or manager has notice of the event.
 - 3. An Applicant or Permit Holder additionally has a duty to notify the Township Board in writing of any pending criminal charge and any criminal conviction, whether a felony, misdemeanor or any violation of a local law related to the

cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of Marijuana, violation of the MMLFA, the MRTMA, any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marijuana by the Applicant, any owner, officer, director, manager or employee within (10) ten days of the date when the Applicant, any owner, principal officer, director or manager has notice of the event.

- J. Public Disclosure Exemption. Information obtained from the Applicant or Permit Holder is exempt from public disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231, et seq.

SECTION 7: OPERATIONAL REQUIREMENTS.

A Marijuana Business 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.

- A. Scope of Operation. Every Marijuana Business shall comply with all respective applicable codes of the local Zoning, Building and Health Departments. Each Marijuana Facility and Establishment must hold a valid local Permit and State License for the type of Marijuana Facility or Establishment intended to be carried out on the Permitted Property. The Facility or Establishment operator, owner or licensee must have documentation available that local and State sales tax requirements, including holding any licenses if applicable, are satisfied.
- B. Required Documentation. Each Marijuana Business shall be operated from the Permitted Premises on the Permitted Property. No Marijuana Facility or Establishment 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.
- C. Security. Permit Holders shall at all times maintain a security system that meets State law requirements and shall also include the following:
1. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises;
 2. Robbery and burglary alarm systems which are professionally monitored and operated twenty-four (24) hours a day, seven (7) days a week.

3. A locking safe permanently affixed to the Permitted Premises or a secured room that shall store all Marijuana and cash remaining in the Facility overnight;
4. 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
5. All security recordings and documentation shall be preserved for at least thirty (30) days by the Permit Holder and made available to any law enforcement agency upon request for inspection.

D. Required Spacing. No Marijuana Business 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. The distance shall be measured as the shortest straight line between the nearest boundaries of the respective properties.

- E. Co-Location. Marijuana Businesses may be located at the same Permitted Premises as other Marijuana Businesses, provided that a Township Permit is applied for and issued for each individual Facility and Establishment, and consistent with any other rule, regulation, or State law, the MMLFA, the MRTMA, and any rules promulgated thereunder, all as periodically amended.
- F. 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 or Establishment shall not exceed that amount permitted by the State License or the Township's Permit.
- G. 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.
- H. Sign Restrictions. All signs shall comply with applicable local, State or federal law or regulations governing Marijuana Businesses, including Article V, "Signs," of the Ely Township Zoning Ordinance. A Permitted Premises or Permitted Property may not contain flashing or animated signs. No pictures, photographs, drawings or depictions of Marijuana or Marijuana paraphernalia, the words "Marijuana," "Marihuana," "Cannabis," or any other words or messages intended to convey the presence or availability of Marijuana shall appear on the outside of the Permitted Premises nor be visible outside of the Permitted Premises.

- I. 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.
- J. Indoor Operation. All activities of Marijuana Business (except for a Secure Transporter's transportation of Marijuana in a properly authorized vehicle) 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 Marijuana Business' 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.
- K. Unpermitted Growing. A person may not grow his or her own Marijuana at a Commercial Medical Marijuana Grower Facility or at an Adult Use Recreational Marijuana Grower Establishment.
- L. Distribution. No person operating a Marijuana Business shall provide or otherwise make available Marijuana to any person who is not legally authorized to receive Marijuana under State Law.
- M. 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.
- N. 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, according to all applicable local, State and federal laws and regulations including but not limited to Michigan Marihuana Regulatory Agency Rule 420.211. Permit holders, owners and operators of Marijuana Businesses must dispose of waste from Marijuana products in secure waste receptacles and shall render Marijuana product waste into an unusable and unrecognizable form by incorporating the Marijuana product waste with other non-consumable solid waste. Permit holders, owners and operators of Marijuana Businesses shall manage all hazardous waste subject to Part 111 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.11101, et seq.
- O. Transportation. Marijuana may be transported by a Secure Transporter within the Township under this Ordinance and to effectuate its purpose only:

1. By Persons who are otherwise authorized by State law to possess Marijuana for Medical or Adult Use Recreational purposes;
 2. In a manner consistent with all applicable State laws and rules, as amended;
 3. In a secure manner designed to prevent the loss of the Marijuana;
 4. No vehicle used for the transportation or deliver of Marijuana under this Ordinance shall have for markings the words “Marihuana”, “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 is transporting Marijuana;
 5. 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.
- P. Age. No person under the age of eighteen (18) shall be allowed to enter into a Commercial Medical Marijuana Facility. No person under the age of twenty-one (21) shall be allowed to enter into an Adult Use Recreational Marijuana Establishment.
- Q. External Lighting. All exterior light fixtures shall be designed, located, installed and maintained in such a manner as to:
1. Prevent glare or light trespass onto neighboring properties to the greatest extent possible.
 2. Be downward cast onto the area being lit. No upward cast or horizontal cast lighting fixtures shall be utilized.
 3. Be shielded so the bulb, diode, or lens is recessed or flush with the bottom surface of the lighted portion of the fixture.
 4. Preserve the night sky in the neighborhood to the greatest extent possible.
- R. Additional Conditions. The Ely Township Planning Commission may impose such reasonable terms and conditions on a Marijuana Business Conditional 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 8: 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:

A. Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall be subject to and found responsible for a municipal civil infraction. The forfeiture for any municipal civil infraction shall be five hundred dollars (\$500.00) plus court costs, attorney fees and abatement costs of each violation, together with all other remedies pursuant to MCL 600.8701, et seq. Each day a violation continues shall be deemed a separate municipal civil infraction. A violator of this Ordinance shall also be subject to such additional sanctions, forfeitures, remedies and judicial orders as are authorized under Michigan Law, to the fullest extent available.

B. Revocation. A Permit issued under this Ordinance may be denied, limited, revoked or restricted under any of the following conditions:

1. Any fraudulent, false, misleading or material misrepresentation contained in the Application.
2. Repeat violations of any requirements of this Ordinance or other applicable law, rule or regulation. As used in this subsection, the term "repeat offense" means a second (or any subsequent) misdemeanor violation or civil infraction of the same requirement or provision committed within any six-month period and upon conviction or responsibility thereof.
3. A valid License is not maintained as required by this Ordinance.
4. The Permit Holder, its agent, manager or employee failed to timely submit any document or failed to timely make any material disclosure as required by this Ordinance.

If a Permit is revoked or limited under this Ordinance, the Township or its designee shall issue a notice stating the revocation, limitation or restriction, including the reason for the action and providing a date and time for an evidentiary hearing before the Township Board.

C. 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, assists in or maintains such violation may each be found guilty or responsible of a separate offense and suffer the penalties and forfeitures provided in subsection (A) of this Section, except as excluded from responsibility by State law.

D. In addition to any other remedies, the Township may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any nuisance or other violations of this Ordinance. The rights and remedies provided herein are primarily civil, but may also have criminal

ramifications. The imposition of any fine, jail sentence or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.

- E. To the extent not otherwise expressly delegated within this Ordinance, this Ordinance shall be enforced and administered by any authorized law enforcement officer, by the Township's Ordinance Enforcement Officer, or such other Township official as may be designated from time to time by resolution of the Ely Township Board.

SECTION 9: 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 10: HEADINGS. The headings and captions utilized in this Ordinance are intended only for convenience, neither add to nor detract from the substantive content of this Ordinance, and shall not be used to interpret or construe this Ordinance.

SECTION 11: EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days following publication after adoption by the Township Board, pursuant to the requirements of MCL 41.184(2)(a).

SECTION 12: REPEAL OF CONFLICTING ORDINANCES. All Ordinance or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of any conflict with this Ordinance. Upon its effective date, this Ordinance specifically repeals and replaces Ely Township Ordinance 2017-1, entitled "Medical Marijuana Facilities" and Ordinance 2019-1, entitled "Marijuana Establishments."

A Motion to adopt the Medical Marijuana Facilities and Adult Use Recreational Marijuana Establishments Licensing and Regulatory Ordinance was made by Board member Taseris and supported by Board Member Carr and a Roll Call Vote was taken.

YEAS: Carr, Wing, Schuhknecht, Taseris and Laakso

NAYS: none

ABSENT: none

Supervisor Jeremy Laakso declared the Medical Marijuana Facilities and Adult Use

Recreational Marijuana Establishments Licensing and Regulatory Ordinance adopted on this 15th day of February, 2023.

CERTIFICATION

I, Molly A. Taseris, Ely Township Clerk, hereby certify that the Medical Marijuana Facilities and Adult Use Recreational Marijuana Establishments Licensing and Regulatory Ordinance was adopted on February 15, 2023.

Dated: _____

Molly A. Taseris, Ely Township Clerk