

**WISE TOWNSHIP
ISABELLA COUNTY, MICHIGAN
ORDINANCE AUTHORIZING AND PERMITTING
COMMERCIAL MEDICAL MARIHUANA FACILITIES
ORDINANCE NO. 18-01**

At a regular meeting of the Township Board of Wise Township, Isabella County, Michigan, held at the Wise Township Hall on April 19, 2018, at 7 p.m., Township Board Member Betsy Babosh moved to adopt the following Ordinance, which motion was seconded by Township Board Member Robert Moore:

An Ordinance to implement the provisions of the Michigan Marihuana Facilities Licensing Act, Public Act 281 of 2016, which authorizes the licensing and regulation of Commercial Medical Marihuana Facilities and affords the Township the option whether or not to allow Commercial Medical Marihuana Facilities; to regulate Commercial Medical Marihuana 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 Marihuana permitted under the Michigan Medical Marihuana 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 WISE ORDAINS:

Section 1. Definitions. The following words and phrases shall have the following definitions when used in this Ordinance:

1. “*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*.”
2. “*Clerk*” means the Wise Township Clerk or his/her designee.
3. “*Commercial Medical Marihuana Facility*” or “*Facility*” means one of the following:
 - a. “*Provisional Center*,” as that term is defined in the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 (“MMFLA”);
 - b. “*Processor*,” as that term is defined in the MMFLA;
 - c. “*Secure Transporter*,” as that term in the MMFLA;
 - d. “*Grower*,” both indoor and outdoor as that term is defined in the MMFLA;
 - e. “*Safety Compliance Facility*” as that term is defined in the MMFLA

- d. “*Grower*,” both indoor and outdoor as that term is defined in the MMFLA;
- e. “*Safety Compliance Facility*,” as that term is defined in the MMFLA.
4. “*Department*” means the Michigan State Department of Licensing and Regulatory Affairs or any authorized Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Medical Marihuana Facility.
 5. “*License*” means a current and valid License for a Commercial Medical Marihuana Facility issued by the State of Michigan.
 6. “*Licensee*” means a Person holding a valid Michigan License for a Commercial Medical Marihuana Facility.
 7. “*Permit*” means a current and valid Permit for a Commercial Medical Marihuana 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.
 8. “*Permit Holder*” means the Person that holds a current and valid Permit issued under this Ordinance.
 9. “*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.
 10. “*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.
 11. “*Marihuana*” means that term as defined in Section 7106 of the Michigan Public Health code, 1978 PA 368, MCL 333.7106.
 12. “*Medical Marihuana*” means that term as defined in MCL 333.36423.
 13. “*Paraphernalia*” means drug paraphernalia as defined in section 7451 of the Michigan Public Health Code, 1978 PA368, MCL 333.7451, that is or may be used in association with Medical Marihuana.
 14. “*Patient*” means a “registered qualifying patient” or a “visiting qualifying patient” as those terms are defined by MCL 333.36421, et seq.
 15. “*Person*” means a natural person, company, partnership, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.
 16. “*Public Place*” means an area in which the public is invited or generally permitted in the usual course of business.
 17. “*Registry Identification Card*” means the document issued to a Patient or a Primary Caregiver and defined under MCL 333.26423(I).
 18. “*Township*” means Wise Township, a general law township located in Isabella County, Michigan.

Section 2. Commercial Medical Marihuana Facility Permit Required; Number of Permits Available; Eligibility; General Provisions.

1. The Township hereby authorizes the operation of the following types of Commercial Medical Marihuana Facilities, subject to the number of available Permits issued in this Section:
 - a. 2 Growers, Class A—on Properties zoned Ag, Commercial or Industrial
 - b. 2 Growers, Class B—on Properties zoned Ag, Commercial or Industrial
 - c. 2 Growers, Class C—on Properties zoned Ag, Commercial or Industrial

- c. 2 Growers, Class C—on Properties zoned Ag, Commercial or Industrial
 - d. 2 Processors—on Properties Commercial or Industrial zoned
 - e. 2 Provisioning Centers—on Commercial or Industrial Zoned
 - f. 2 Safety Compliance Facilities—on Commercial or Industrial Zoned
 - g. 2 Secure Transporters—on Commercial or Industrial Zoned
2. The number of Commercial Medical Marihuana Facility Permits in effect at any time shall not exceed the following maximums within the Township:
- a. Grower Permits, Class A: 2 Class B: 2 Class C: 2
 - b. Processor Permits: 2
 - c. Provisioning Center Permits: 2
 - d. Safety Compliance Facility Permits: 2
 - e. Secure transporter Permits: 2
 - f. Outdoor growers Permits, Class A: 3 Class B: 3 Class C: 3

The Township Board may review and amend these numbers by resolution annually or as it is determined advisable.

3. Commercial Medical Marihuana Permits will be issued for Areas that are Ag, Commercial or Industrial zoned, per Section 2 (1), with operations centers not to be located any closer than 15 feet from any property line of a residential dwelling not owned or leased by the licensed operator of licensed facility, and must maintain the standard zoning setbacks from center of roadway.
4. No person shall operate a Commercial Medical Marihuana 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 Marihuana 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, regulations, codes or ordinance.
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 Marihuana Facilities. The Township Board shall by resolution set the fees in an amount not to exceed any limitations imposed by Michigan law.
8. A permit or a Renewal Permit shall not confer any vested rights or reasonable expectation of subsequent renewal of the Applicant or Permit Holder, and shall remain valid for 365 days from date of permit issue. A completed Application or Renewal Application must be received by the Wise Township Clerk, not later than 45 Days prior to expiration of existing permit, each year in order to receive approved renewal of the Permit.
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.

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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 any and all material changes in any information submitted on an Application and any other changes that may materially affect any State of Michigan License or its Wise Township Permit.
11. No permit issued under this Ordinance may be assigned or transferred to any Person. Any Permit issued under this Ordinance is for the Permitted Premises on the Permitted Property only.
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 Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agents and employees for any state, federal, or local law enforcement to conduct random and unannounced examinations of the Facility and all articles of property in that Facility at any time to ensure compliance with this Ordinance, with any other State or local regulations and with the Permit.
14. A Permit Holder may not engage in any other Commercial Medical Marihuana Facility on 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 3. Other Laws and Ordinances. In addition to the terms of this Ordinance, any Commercial Medical Marihuana 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 or regulations. To the extent that 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, phone number and e-mail address of the proposed Permit Holder and the proposed Commercial Medical Marihuana Facility;
 - b. The name, home addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder and the Commercial Medical Marihuana Facility;
 - c. One (1) copy of 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 Marihuana 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 driver's license or state issued ID for all owners, directors, officers and managers of the proposed Facility.

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- 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. All signage must be in compliance with regular Wise Township signage rules Section 5.04-5.04J.
- 6) Non-refundable Application fee.
- 7) Business and Operations Plan, showing in detail the Commercial Medical Marihuana 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 of 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 Marihuana Facility.
 - v. A description and plan for all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detectable from outside of the Permitted Premises.
 - vi. A plan for the disposal of Marihuana 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 Marihuana 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 nonrenewal, 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 Property.
- 11) Information regarding any other Commercial Medical Marihuana 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

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 forty-five (45) days prior to the expiration of the annual Permit, except than an Application requesting a change in the location of the Permitted Premises shall be submitted and received not less than forty-five (45) 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 inspections, review and processing of the Application shall be completed within forty-five (45) days of receipt of a complete Application and all required fees. The Township Board shall approve or deny the Permit within forty-five (45) days of receipt of the completed Application and fees, or within forty-five (45) 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 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 Licensee shall supplement such information in writing within ten (10) days from the date upon which such 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 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 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, the MMMA, the MMFLA, 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

of marijuana, the MMMA, the MMFLA, 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, principle officer, director, manager, or employee within (10) ten 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 from 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. *Operating Hours.* No Provisioning Center shall operate between the hours of 8:00 p.m. and 8:00 a.m.
4. *Required Spacing.* No Commercial Medical Marijuana Facility shall be located within one thousand (1,000) 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 line.
5. *Permits.* All necessary building, electrical, plumbing, and mechanical permits, pursuant to Wise Township Zoning, 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.
6. *Waste Disposal.* The permit holder, owner and operator of the Facility shall use lawful methods of controlling waste or by-products from any activities allowed under the License or Permit.
7. *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 the 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 \$500.00, or imprisoned for not more than 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.

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2. 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 abatements 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.
3. 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 subsections (1) and (2) of this section, except as excluded from responsibility by state law.
4. 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 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.

YEAS: Betsy Babosh, Renee Filhart, Robert Moore & Doris Methner

NAYS: Travis Burgess

ABSENT/ABSTAIN:

ORDINANCE DECLARED ADOPTED.

Robert Moore, Wise Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Wise Township Board at a duly scheduled and notice meeting of that Township Board held on April 19, 2018, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the Morning Sun newspaper, a newspaper that circulated within Wise Township, on April 25, 2018.
3. Within 1 week of such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.

ATTESTED:

Doris Methner, Wise Township Clerk

