

FINAL  
(November 21, 2017)

PLEASANT PLAINS TOWNSHIP  
LAKE COUNTY, MICHIGAN  
(Ordinance No. 26)

At a Reg meeting of the Township Board for Pleasant Plains Township held at the Township offices at 830 Michigan Avenue in Baldwin, Michigan 49304, on Nov. 27<sup>th</sup>, 2017, beginning at 6 p.m., Township Board Member Tommy Covert made a motion to adopt this Ordinance, which motion was seconded by Township Board Member Debbie Russel:

**A PLEASANT PLAINS TOWNSHIP ORDINANCE TO  
ALLOW MEDICAL MARIHUANA FACILITIES SUBJECT  
TO RESTRICTIONS AND REQUIREMENTS.**

THE TOWNSHIP OF PLEASANT PLAINS (the "TOWNSHIP") ORDAINS:

1. **Intent.**

- a. It is the intent of this Section to provide appropriate locations and reasonable restrictions for the cultivation and transfer of medical marihuana allowed by the Michigan Medical Marihuana Act, MCL 333.26421, *et seq.* This is a unique land use with ramifications not addressed by more traditional zoning district and home occupation regulations. Although some specific uses of marihuana are allowed by the Michigan Medical Marihuana Act, marihuana continues to be classified as a Schedule 1 controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense marihuana.
- b. It is the intent of this Section to protect the health, safety, and general welfare of persons and property by limiting land uses related to medical marihuana to zoning districts that are compatible with such uses. Additional regulations in this Section are intended to provide reasonable restrictions within zoning districts so that these uses do not comprise the health, safety, and general welfare of persons in the district, or other uses allowed in each zoning district.

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

- a. Words and Phrases Contained in the Michigan Medical Marihuana Act (“MMMA”), MCL 333.26421, *et seq.*, as amended by Michigan P.A. 281, 282 and 283 of 2016. This subsection contains some words and phrases that are defined in the MMMA, except that if at any time the definition of a word or phrases set forth below conflicts with the definition in the MMMA, then the definition in the MMMA shall apply. These words and phrases are as follow:

“Department” means the Michigan Department of Community Health or government successor agency.

“Grower” means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages medical marihuana for sale to a processor or provisioning center.

“Licensee” means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

“Marijuana” or “marihuana” means that term as defined in the Public Health Code, MCL 333.1101 *et seq.*; the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*; and the Marihuana Tracking Act, MCL 333.327901 *et seq.* Marijuana means “marihuana” as used in the MMMA.

“Marihuana facility” means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, or medical marihuana home occupations or a dwelling unit in which marihuana is being cultivated for a qualifying patient who resides in the dwelling unit as permitted by this Ordinance.

“Medical marihuana home occupation” means an accessory use of a nonresidential nature that is conducted by a registered primary caregiver who resides in the dwelling and (a) is performed within a single-family dwelling or within an accessory building to that single-family dwelling; (b) is for the purpose of assisting one or more registered qualifying

patients with the medical use of marihuana who do not reside in the dwelling; and (c) complies with the MMMA.

“Medical marihuana provisioning center” means a building or part of a building where one or more primary caregivers operate with the intent to transfer marihuana between primary caregivers and/or qualifying patients, other than a medical marihuana home occupation or a dwelling unit in which the transfer of marihuana occurs between a primary caregiver and qualifying patient who resides in the dwelling unit as permitted by this Ordinance.

“Medical use” means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating condition.

“Primary caregiver” means a person who is at least 21 years old and who has agreed to assist with a patient’s medical use of marihuana and who has never been convicted of a felony involving illegal drugs.

“Michigan Medical Marihuana Act” and “MMMA” mean the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*

“Outdoor production” means growing medical marihuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.

“Processor” means a licensee that is a commercial entity located in this state that purchases medical marihuana from a grower and that extracts resin from the medical marihuana or creates a medical marihuana-infused product for sale and transfer in packaged form to a provisioning center.

“Provisioning center” means a licensee that is a commercial entity located in this state that purchases medical marihuana from a grower or processor and sells, supplies, or provides medical marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property where medical marihuana is sold at retail to registered qualifying patients or registered

primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, is not a medical marihuana provisioning center for purposes of this Ordinance.

“Qualifying patient” means a person who has been diagnosed by a physician as having a debilitating medical condition.

“Safety compliance facility” means a licensee that is a commercial entity that receives marihuana from a medical marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

“Secure transporter” means a licensee that is a commercial entity located in this state that stores medical marihuana and transports medical marihuana between medical marihuana facilities for a fee.

3. **Locations of medical marijuana facilities.** Medical marijuana facilities may be located in Pleasant Plains Township only in accordance with the following restrictions:
  - a. Medical marihuana provisioning centers and secure transport facilities shall only be located in the Commercial (C) zoning district where retail is permitted and shall be special land uses.
  - b. Cultivation facilities shall only be located in the Commercial (C) or Rural (R) zoning district and shall be special land uses.
  - c. Safety compliance facilities and medical marihuana processing facilities shall only be located in the in the Commercial (C) and Industrial (I) zoning districts and shall be special land uses.
  
4. **Medical marihuana provisioning centers, secure transporting, and safety compliance facility regulations.**
  - a. Medical marihuana provisioning centers, secure transporting, and safety compliance facilities shall be licensed by the State of Michigan in accordance with Michigan P.A. 281 of 2016.

1. *Hours.* A medical marihuana provisioning center, secure transport, and safety compliance facility may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center, secure transport, and safety compliance facility between the hours of 9:00 a.m. and 9:00 p.m.
2. *Indoor Activities.* All activities of a provisioning center, secure transport, and safety compliance facility, including all transfers of medical marihuana, shall be conducted within the structure and out of public view. Medical marihuana provisioning centers shall not have a walk-up window or drive-thru window service.
3. *Other Activities.* Medical marihuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center, secure transport, and safety compliance facility.
4. *Nonconforming uses.* A medical marihuana provisioning center, secure transport, and safety compliance facility may not be located in a building in which a nonconforming retail use has been established.
5. *Physical Appearance.* The exterior appearance of the medical marihuana provisioning center, secure transport, and safety compliance facility structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
6. *Odor.* As used in this subsection, building means the building, or portion thereof, used for a medical marijuana provisioning center, secure transport, and safety compliance facility.
  - a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

- b. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
- c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
- d. Negative air pressure shall be maintained inside the building.
- e. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
- f. An alternative odor control system is permitted if the special use applicant submits and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert should be accepted.

b. *Other requirements.*

- 1. No person shall reside in or permit any person to reside in a medical marihuana provisioning center, secure transporting, and safety compliance facility.
- 2. No smoking, inhalation, or consumption of marihuana shall take place on the premises.
- 3. Drive-in medical marihuana provisioning centers, secure transporting, and safety compliance facilities shall be prohibited.

4. No equipment or process shall be used in any medical marihuana provisioning center, secure transporting, or safety compliance facility which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal sense beyond the property boundary.
5. A zoning compliance permit for medical marihuana provisioning, secure transporting, and safety compliance facilities shall be required.
6. A site plan approval shall be required for medical marihuana provisioning, secure transporting, and safety compliance facilities.
7. Medical marihuana provisioning, secure transporting and safety compliance facilities shall comply with all other regulations of the zoning district in which the facility is located, except when they are in conflict, in which case this Section shall prevail.
8. Medical marihuana provisioning, secure transporting and safety compliance facilities shall receive and hold a license issued by the Township and shall be operated in compliance with the MMMA.
9. *Security Cameras.* Security cameras are required to be installed and operated in medical marihuana provisioning, secure transporting and safety compliance facilities 24 hours per day, 365 days per year, and shall be directed to record only the subject property. Required security cameras may not be directed to public right-of-ways as applicable, except as required to comply with licensing requirements of the State of Michigan.

5. **Medical marihuana cultivation and processing facility regulations.**

- a. Medical marihuana cultivation and processing facilities shall be licensed by the State of Michigan in accordance with Michigan P.A. 281 of 2016, and shall comply with the requirements of Township ordinances.

- b. *Indoor Production and Processing.* Marihuana cultivation and processing shall be located entirely within one or more completely enclosed buildings. Medical marihuana cultivating and processing shall be located entirely within a fully enclosed, secured, indoor facility or greenhouse with rigid walls, a roof, and doors. All activities of a medical marihuana cultivation and processing facility shall be conducted indoors.
  
- c. *Maximum Building Floor Space.* Medical marijuana cultivation and processing facilities shall comply with the following standards:
  - 1. The square footage of building floor space to be used for all activities associated with marijuana cultivation and processing on the subject property will be in compliance with the Township Zoning Ordinance.
  
  - 2. If only a portion of a building is authorized for use in marihuana cultivation and processing, a partition wall at least seven feet in height, or a height as required by the applicable building codes, whichever is greater, shall separate the marihuana production space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marihuana production space and the remainder of the building.
  
- d. *Lighting.* Lighting for medical marihuana cultivation and processing shall be regulated as follows:
  - 1. Light cast by light fixtures inside any building used for medical marihuana cultivation or processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
  
  - 2. Outdoor medical marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
  
- e. *Odor.* As used in this subsection, building means the building or portion thereof, used for medical marihuana cultivation or processing.
  - 1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building



through an exhaust vent first passes through an activated carbon filter.

2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
  4. Negative air pressure shall be maintained inside the building.
  5. Doors and windows shall remain closed, except for minimum length of time needed to allow people to ingress or egress the building.
  6. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
- f. Security Cameras. Security cameras are required to be installed and operated in medical marihuana cultivation and processing facilities 24 hours per day, 365 days per year, and shall be directed to record only the subject property. Required security cameras may not be directed to public right-of-ways as applicable, except as required to comply with licensing requirements of the State of Michigan.
- g. Residency. No person shall reside in or permit any other person to reside in a medical marihuana cultivation or processing facility.
- h. Additional requirements for medical marihuana cultivation and processing facilities.

1. No smoking, inhalation, or consumption of marijuana shall take place on the premises.
2. No equipment or process shall be used in any medical marijuana cultivation or processing facility which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
3. A zoning compliance permit for medical marijuana cultivation and processing facilities shall be required.
4. Site plan approval shall be required for medical marijuana cultivation and processing facilities.
5. A medical marijuana cultivation facility shall grow no more marijuana plants on the premises than allowed and licensed by Michigan P.A. 281 of 2016 as Class A, Class B or Class C facilities.
6. Medical marijuana cultivation and processing facilities shall comply with all other regulations of the zoning district in which the medical marijuana facility is located, except when they are in conflict, in which case this Section shall prevail.
7. Medical marijuana cultivation and processing facilities shall receive and hold a license from the Township and shall be operated in compliance with the MMA.

6. **Special Land Use Requirements and Standards for Medical Marijuana Facilities.**

- a. Medical marijuana facilities, in accordance with the provisions of state law, may be allowed through the issuance of a special land use approval provided that:
  1. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the Township. In the event that a court with jurisdiction declares some or all of this Section

invalid, then the Township may suspend the acceptance of applications for special land use permits for medical marihuana facilities pending the resolution of the legal issues in question.

2. At the time of application for a special land use permit, the marihuana facility must be licensed by the State of Michigan and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*; and the Marihuana Tracking Act, MCL 333.27901 *et seq.*; and all other applicable rules promulgated by the State of Michigan.
  3. At the time of application for a special land use permit, the marihuana facility must be licensed by the Township, or have a Township license concurrently in process with the special land use permit and site plan approval, and then must be at all times in compliance with all applicable Township ordinances.
  4. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the Township.
  5. The Township may suspend or revoke a special land use permit or approval based on a finding that the provisions of this Zoning Ordinance, the special use standards contained in this Section, all other applicable provisions of this Zoning Ordinance, other applicable Township ordinances or the terms of the special use approval or the approved site plan are not met.
  6. A marihuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales or marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this Ordinance.
7. **Cultivation or other medical use of marijuana as a medical marijuana home occupation in single-family dwellings.**
- a. In a single family dwelling in any zoning district, no more than 72 marihuana plants shall be grown on the premises, regardless of the number

of registered primary caregivers and/or registered qualifying patients residing in the dwelling. The principal use of the single-family dwelling shall be a residential occupancy and shall be in actual use as such.

- b. Medical marihuana home occupations are not permitted in multiple-family dwellings and other non-single family dwellings.

**Severability.**

Should any portion of this Ordinance/ordinance amendment be declared by a court of competent jurisdiction to be invalid or unconstitutional, that shall not affect the balance of this Ordinance/ordinance amendment, which shall remain in full force and effect.

**Effective Date.**

This Ordinance/ordinance amendment shall become effective upon the expiration of fifteen (15) days after this Ordinance/ordinance amendment (or a summary thereof) appears in the newspaper as provided by law.

The vote to adopt this Ordinance/ordinance amendment was as follows:

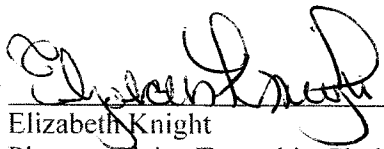
YEAS: 5  
NAYS: 0  
ABSENT/ABSTAIN: 0

ORDINANCE DECLARED ADOPTED.

**CERTIFICATION**

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Board for Pleasant Plains Township at the time, date and place as specified above, pursuant to the required statutory procedures.

Respectfully submitted,

By   
Elizabeth Knight  
Pleasant Plains Township Clerk