

**Vassar Township
Tuscola County, Michigan
Ordinance Authorizing and Permitting
Commercial Marijuana Facilities
Ordinance No. 2017-02**

SECTION 1.1 PURPOSE

- A. It is the intent of this ordinance to authorize the establishment of several types of Commercial Marijuana Facilities in the Township of Vassar and provide for the adoption of reasonable restrictions to protect the public health, safety and general welfare of the community at large; retain the character of neighborhoods; and mitigate 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 marijuana facilities in Vassar Township through the imposition of annual, nonrefundable licensing fees of not more than \$5,000.00 on each Commercial Marijuana Facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacturing, possession, use sale or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq. As amended; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq. and all other applicable rules promulgated by the State of Michigan.
- C. As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec 801 et seq., which makes it unlawful to manufacture, distribute or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

SECTION 1.2 DEFINITIONS

- A. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.

"Affiliate" means any person that controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership with a licensee or applicant.

"Application" means an application for a permit under this ordinance and includes supplemental documentation attached or required to be attached thereto; the person filing the applications shall be known as the **"applicant."**

"Commercial Marijuana Facility", "Marihuana Facility" or "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, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana 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.

"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 Marijuana Facility.

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

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

"Marihuana" or "Marijuana" means that the term as defined in the Public Health Code. MCL 333.1101 et seq.; the Medical Marihuana Act MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracing MCL 333.27901 et seq. For the purpose of this ordinance, the spellings are interchangeable. See Marihuana plant.

"Marihuana plant" means any plant of the species Cannabis sativa L.

"Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

"Michigan medical marihuana act" means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

"Paraphernalia" means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

"Permit" means a current and valid permit for a Commercial 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 under this ordinance.

"Permitted Premises" Means a particular building or buildings within which the Permit Holder will be authorized to conduct the facility's activities.

"Permitted Property" means the real property comprised of a lot, parcel or other designated unit of real property upon which a permitted premises facility is situated.

"Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, other legal entity or any joint venture for a common purpose.

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

"Provisioning center" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patient's registered primary caregiver. Provisioning center includes any commercial property where 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 through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act, 333.26421 et seq., is not a provisioning center for purposes of this act.

"Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act, MCL 333.26423.

"Registered qualifying patient" means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

"Registry identification card" means a document issued by the State of Michigan that identifies a person as a registered qualifying patient or registered primary caregiver, as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

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

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

"State operating license" or, unless the context requires a different meaning, **"license"** means a license that is issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

"Township" means Vassar Township, a general law township located in Tuscola County, Michigan.

SECTION 1.3 AUTHORIZATION OF FACILITIES AND FEES

- A. The maximum number of each type of Commercial Marijuana Facility located in The Township of Vassar is set as follows at the time of adoption, but will be reviewed annually or as determined to be advisable at the discretion of the Vassar Township Board of Trustees.

The review and its findings shall be recorded in the minutes of the relevant meeting of the Vassar Township Board.

Type of Facility	Number Allowed
Grower Type A (Up to 500 plants)	Unlimited
Grower Type B (Up To 1,000 plants)	Unlimited
Grower Type C (Up to 1,500 plants)	Unlimited
Secure Transporter	Unlimited
Processor	Unlimited
Safety Compliance Facility	Unlimited
Provisioning Center	5

- B. A non-refundable local permitting fee shall be paid annually to the Township of Vassar by each Commercial Marijuana Facility licensed under this ordinance of no more than \$5,000 as set by resolution of the Vassar Township Board of Trustee's.

SECTION 1.4 GENERAL REQUIREMENTS

- A. No person shall operate a Commercial Marijuana Facility in the Township of Vassar without a valid Marijuana facility permit issued by the Township of Vassar and shall operate pursuant to the provisions of this ordinance.
- B. 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 ordinances.
- C. At the time of application, each Applicant shall pay a non-refundable application fee to defray the costs incurred by the Township as set by resolution of the Vassar Township Board of Trustee's, not to exceed any limitations imposed by Michigan Law.
- D. A new or renewal permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the applicant or permit holder, and shall remain valid for one year, until the November 15th immediately following its approval. A completed application or renewal application must be received by the Township Zoning Administrator or Planning Commission Chairman no later than August 15th of each year in order to grant or renew the permit effective on November 15th of that year.
- E. Each year, any pending applications for renewal of existing permits shall be reviewed and granted or denied before applications for new permits are considered.
- F. It is the sole and exclusive responsibility of each current or prospective permit holder to at all times during its' operation or application period, immediately provide Vassar Township with all material changes in any information previously provided that may materially affect any state or local permit.
- G. No permit issued under this ordinance may be assigned or transferred to any person unless the assignee or transferee has submitted an application, fees and documentation required under this ordinance and has been granted a local permit by Vassar Township. No permit

issued under this ordinance is transferable to any other location other than the permitted premises on the permitted property.

- H. The original local permit issued under this ordinance shall be prominently displayed in the facility in a location where it can be readily viewed by the public, law enforcement or administrative officials at all times.
- I. 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, unannounced examinations of their facility and all articles of property therein at any time to insure compliance with this ordinance, the permit or local and state regulations.
- J. A permit holder may not engage in any other marijuana facility on the permitted property or premises without first obtaining a separate local permit.
- K. No permit shall be granted or renewed for a Commercial Marijuana Facility in a residence, building or area not specifically zoned for that purpose.
- L. Receiving and maintaining a valid Marijuana Facility license issued by the State of Michigan is a condition for the issuance and maintenance of a marijuana facility permit under this ordinance and continued operation of any marijuana facility.

SECTION 1.5 APPLICATION FOR PERMITS

- A. An application for a permit to operate a Commercial Marijuana Facility must be on a form provided by Vassar Township and shall be submitted to the Township Zoning Administrator or Planning Commission Chairman along with the following information:
 - 1. The name, address, phone number and email address of the applicant/s and the type of proposed commercial marijuana facility.
 - 2. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the proposed commercial marijuana facility.
 - 3. One copy each of the following:
 - a) Documentation showing the applicant's valid tenancy, ownership or other legal interest in the property and premises propose to be permitted. If the applicant is not the owner of the proposed permitted property and/or premises, a notarized statement from the owner of such property, authorizing its' use for a commercial marijuana facility.
 - 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 and attach a copy of all company formation documents (including amendments), proof of registration with the State of Michigan and a certificate of good standing.
 - c) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, officers and managers of the proposed facility.
 - 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 a sign permit, if a sign is being proposed.
 - f) The non-refundable application fee as set by the Vassar Township Board.
 - g) 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 or nonrenewal, including the licensing authority, the date each action was taken and the reason for each action.
- h) A site plan of the proposed property and an interior floor plan of the proposed premises for the facility as required by the zoning ordinance.
 - i) Information regarding any other Commercial Marijuana Facility that the applicant is currently authorized to operate in any other jurisdiction within Michigan, another state or country and the applicant's involvement in each facility.
 - j) Application for Special Use Permit to be issued by the Township Planning Commission
 - k) Application for Site Plan review to be issued by the Township Planning Commission
4. Any other reasonable information requested by Vassar Township that is considered to be relevant to the processing or consideration of the application.
 5. Information obtained from the Applicant or Proposed Permit Holder is exempt from public disclosure (FOIA) under state law.
- B. Upon receipt of the application and accompanying documentation, the Vassar Township Zoning Administrator or Planning Commission Chairman shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The Zoning Administrator or Planning Commission Chairman shall act to process an application not later than fourteen business days from the date the application was accepted. If the application is deemed complete, the Zoning Administrator or Planning Commission Chairman shall forward all information to the Planning Commission and establish a date for public hearing and Planning Commission review.
- C. A provisional application means only that the applicant has submitted a valid application for a Commercial Marijuana Facility Permit, and the applicant shall not locate or operate a facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the Township. The permits and approvals required include but are not limited to:
1. Special Use Permit as issued by the Township Planning Commission
 2. Site Plan approval from the Township Planning Commission
- D. Within 10 business days of the planning commission's approval of the applicant's Site Plan, Special Use Permit and Commercial Marijuana Facility Permit and payment of the annual non-refundable local permitting fee, the Vassar Township Planning Commission Secretary shall issue the Commercial Marijuana Facility Permit in order of the previously assigned sequential application number.
- E. An application is valid for one year from the processing date issued by the Township Zoning Administrator or Planning Commission Chairman. If all permits and approvals are not received in that time frame, the application shall be null and void.

SECTION 1.6 PERMIT RENEWAL

- A. A commercial marijuana facility permit shall expire the November 15 following final approval unless renewed by the Vassar Township Planning Commission and is valid until that date unless revoked as provided by law.
- B. A valid Commercial Marijuana Facility Permit may be renewed on an annual basis by submitting a renewal application form provided by Vassar Township and payment of the annual local permit fee. Renewal applications must be filed at least 90 days prior to the expiration of the facility's permit or 120 days prior for changes of location. Vassar Township will not accept renewal applications and permit forfeiture will result after the expiration date.

SECTION 1.7 APPLICABILITY

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a Commercial Marijuana Facility were established without authorization before the effective date of this ordinance.

SECTION 1.8 PENALTIES AND ENFORCEMENT

- A. Any person who violates any of the provisions of this ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than \$500.00, plus costs. Each day a violation of this ordinance continues to exist constitutes a separate violation. A violator of this ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan Law.
- B. A violation of this ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, Vassar Township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this ordinance.
- C. This ordinance shall be enforced and administered by the Township Zoning Administrator or such other Vassar Township official as may be designated from time to time by resolution of the Vassar Township Board of Trustees.

SECTION 1.9 SEVERABILITY

In the event any one or more sections, provisions, phrases or words of this ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this ordinance.

SECTION 1.10 OPERATIONAL REQUIREMENTS

- A. A Commercial Marijuana Facility issued under this ordinance and operating in Vassar 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 deems reasonable.
- B. **Scope of Operation.** Commercial 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 Marijuana Facility license for the type of Facility intended to be carried out on the permitted property. The Facility owner, Operator or Licensee must have documentation available that local and State sales tax requirements, including holding any licenses, if applicable, are satisfied.

- C. **Location.** Each Commercial Marijuana Facility shall be operated only from the permitted premises on the permitted property. No Commercial 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.
- D. No person under the age of eighteen (18) shall be allowed to enter into a Commercial Marijuana Facility without a parent or legal guardian.
- E. **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 Facility;
 - 2. Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;
 - 3. A locking safe permanently affixed to the permitted premises that shall store all usable marijuana and cash remaining in the Facility overnight;
 - 4. All marijuana in whatever form stored at the facility shall be kept in a secure manner and shall not be visible from outside the facility, nor shall it be grown, processed, exchanged, transferred, displayed or dispensed outside the facility; and
 - 5. All security recordings and documentation shall be preserved for at least 5 days by the permit holder and made available to any law enforcement upon request for inspection.
- F. **Sale of Marijuana.** Marijuana and marijuana products offered for sale and distribution must be packaged and labeled in accordance with the laws of the State of Michigan.
- G. **Sign Restrictions.** No pictures, photographs, drawings or other depictions of Marijuana or Marijuana Paraphernalia shall appear on the outside of any Permitted Premises nor be visible from outside of the Permitted Premises on the Permitted Property.
- H. **Use of Marijuana.** The sale, consumption or use of alcohol or tobacco products on the permitted property is prohibited. Smoking or consumption of controlled substances, including marijuana, on the permitted property is prohibited.
- I. **Indoor Operation.** All activities of Commercial Marijuana Facilities, including without limitation, distribution, growth, cultivation, processing or the sale or transfer of marijuana, and all other related activity permitted under the facilities license or permit must occur indoors. The facilities operation and design shall minimize any impact to adjacent uses, including the control of odor by maintaining and operating an air filtration system so that no odor is detectable outside the permitted facility.
- J. **Unpermitted Growing.** Only the entity named in a permit may grow at a commercial Marijuana grow facility.
- K. **Additional Conditions.** The Vassar Township Board may impose such reasonable terms and conditions on a Commercial 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 1.11 EFFECTIVE DATE

This Ordinance shall take effect fifteen (15) days following publication or posting after final adoption by the Vassar Township Board of Trustees.

The undersigned Supervisor and Clerk of the Township of Vassar hereby certify that this Ordinance was duly adopted by the Vassar Township Board on the 10th day of October, 2017 and was published in the Tuscola County Advertiser on the 14th day of October, 2017. This Ordinance shall take effect fifteen (15) days after said date of publication.

Bruce Foether, Township Supervisor

Michael Clinesmith, Township Clerk