

STATE OF MICHIGAN  
COUNTY OF SAGINAW  
BUENA VISTA CHARTER TOWNSHIP

ORDINANCE NO. 271

**AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF  
MEDICAL MARIJUANA FACILITIES**

**Section 1001. Purpose**

- A. It is the intent of this ordinance to authorize the establishment of certain types of medical marijuana facilities in the Charter Township of Buena Vista 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 of the surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marijuana facility in the Township through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical 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, manufacture, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marijuana Act, Initiated Law I of 2008, MCL 333.26421 et seq.; The Michigan Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marijuana 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 I 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, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

**Section 1002. Definitions**

**For the purposes of this ordinance**

- A. **"Applicant"** means a person who applies for a Township operating license. With respect to disclosures in an application, or for purposes of eligibility for a Township license, the term applicant includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.
- B. **"Board"** means the medical marijuana licensing board created by section 301 of the Act
- C. **"Department"** means the state department of licensing and regulatory affairs.

- D. "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.
- E. "Marijuana or Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- F. "Marihuana facility" or "Marijuana Facility" means a location at which a Township Licensee or Applicant is licensed to operate under this Article or the Act.
- G. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- H. "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.
- I. "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 patients' registered primary caregivers. 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 is not a provisioning center for purposes of this Article or Act.  
 "Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the MMMA.
- J. "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 MMMA, MCL 333.26423.
- K. "Registry identification card" means that term as defined in section 3 of the MMMA, MCL 333.26423.
- L. "Rules" means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the Department to implement the Act.
- M. "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.
- N. "School" means any public or private school meeting all requirements of the compulsory education laws of the state.  
 "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.
- O. "State Licensee" means a person holding a valid State operating license
- P. "State operating license" or, unless the context requires a different meaning, "State License" means a license that is issued under the Act that allows the licensee to operate as 1 of the following, specified in the license:
  - (i) A grower.
  - (ii) A processor.

- (iii) A secure transporter.
  - (iv) A provisioning center.
  - (v) A safety compliance facility.
- Q. "Township" means the Buena Vista Charter Township.
- R. "Township operating license" or, unless the context requires a different meaning, "Township License" means a license that is issued under this Article that allows the licensee to operate as 1 of the following, specified in the license:
- (i) A grower.
  - (ii) A processor.
  - (iii) A secure transporter.
  - (iv) A provisioning center.
  - (v) A safety compliance facility.
- S. "Township Licensee" means a person holding a valid Township operating license

**Section 1003. Marijuana Facilities Authorized and Fees.**

A. *Authorization.* The Township authorizes the operation of Marijuana Facilities within the Township as provided by the Act subject to the limitations, regulations and requirements set forth in this Article and applicable provisions of the Township's Zoning Ordinance. The maximum number, placement and yearly operating fees for Marijuana Facilities within the Township are as follows:

FACILITY	TOTAL NUMBER	DISTRICT PLACEMENT	OPERATING FEE
<i>Grower</i>	3	M-1, M-2	\$5,000.00 per year
<i>Processor</i>	3	M-1, M-2	\$5,000.00 per year
<i>Secure Transporter</i>	3	M-1, M-2	\$5,000.00 per year
<i>Provisioning Center</i>	3	B-2, B-3, M-1, M-2	\$5,000.00 per year
<i>Safety Compliance</i>	3	M-1, M-2	\$5,000.00 per year

- B. *License Required.* A person shall not engage in the business or occupation of a Marijuana Facility within the Township without first obtaining:
- a. A State operating license for the Marijuana Facility, and;
  - b. A Township operating license issued by the Township pursuant to the requirements and procedures set forth in this ordinance.
- C. *Fees.* An application fee in an amount to be established by resolution of Township Board must be paid at the time of filing an application for a Township operating license to defray the administrative costs of processing and reviewing an application. Except as expressly provided by this Article, application fees are non-refundable. In the event an application is referred for a consultant review, the applicant shall pay all consultant

review fees as required by Township ordinance or resolution. Upon approval or renewal of a Township operating license, the Township Licensee shall pay an annual nonrefundable operating fee as required by this Article to help defray Township costs associated with the operation of a Marijuana Facility within the Township.

#### **Section 1004. Requirements and Procedure for Issuing License**

- A. Application for a Township operating license shall be made to the Township Clerk upon Township application forms for a Township operating License and signed by the applicant verifying:
  - a. The truth and accuracy of all information and representations in the application, and;
  - b. The Applicant's legal authority to make application for the proposed Marijuana Facility at the proposed location. Applications including information and documentation provided pursuant to an application shall be subject to the disclosure provisions under the Act. In addition to information and submittals required by this ordinance, the application shall include payment of an application fee in an amount set by resolution of Board.
  
- B. Operating License Requirements. Any land use, site plan or other zoning approval of a Marijuana Facility granted under any provision of this zoning ordinance shall be deemed conditional upon the timely approval and issuance of both a State and Township Marijuana Facility Operating License. Revocation or denial of a required Marijuana Facility Operating License shall render any approval of a Marijuana Facility granted under any provision of the zoning ordinance null and void.
  
- C. Approved Site Plan Required. Use of any property or structure as a Marijuana Facility requires Site Plan Review and approval of a site plan by the Planning Commission pursuant to Section 1101 (C) of the Buena Vista Charter Township Zoning Ordinance. Marijuana Facilities shall be operated and maintained in compliance with the approved site plan for the facility. Any use of property or a structure without, or in violation of, an approved site plan shall constitute a violation of the zoning ordinance and a nuisance per se subject to abatement by a court of competent jurisdiction.
  
- D. Site Plan Application and Review Criteria. A site plan and site plan approval application for a Marijuana Facility shall generally comply with section 1101 (C) "Site Plan Review" of the Buena Vista Charter Township Zoning Ordinance. A site plan application for a Marijuana Facility shall be processed in accordance with the Planning Commission Review procedures in Section 1101 (D) by the Planning Commission. In addition to the criteria set forth in Section 1101, the following shall apply to a site plan/application for a Marijuana Facility:
  - a. Identification of the type of Marijuana Facility applied for (e.g. grower, provisioning center, etc.) and a detailed description of all services, products, items, uses, operations or merchandise produced, sold, offered, conducted or provided by the proposed Marijuana Facility;

- b. Marijuana Facility uses, operations and activities shall comply with all rules and operating regulations adopted pursuant to Section 206 of the Act. A description of an operating plan for the proposed Marijuana Facility shall be provided including the following:
  - i. A description of the products and services to be provided by the Marijuana Facility, including retail sales of food and/or beverages, if any, and any related accommodations or facilities;
  - ii. A floor plan, drawn to scale, showing the layout of the Marijuana Facility and the principal uses of the floor area depicted therein, including a detailed depiction of where any uses other than marijuana related uses are proposed to occur on the premises;
  - iii. A detailed description of all marijuana storage facilities and equipment including enclosed, locked facilities, if any, as may be required by the Act. Storage of marijuana shall comply with applicable rules adopted pursuant to Section 206 of the Act.
- c. A description of waste disposal procedures, methods and facilities for marijuana waste products including, but not limited to, usable and non-usable marijuana. Waste product disposal and storage shall comply with applicable rules adopted pursuant to Section 206 of the Act;
- d. A description of any proposed signs including a detailed depiction of sign language or displays, dimensions, locations, quantity, configuration and illumination. Signs shall comply with applicable provisions of the Township's Sign Ordinance and any marketing /advertising restrictions for marijuana products and facilities adopted pursuant to Section 206 of the Act.
- e. Signed and dated verification by the property owner, or his/her duly authorized agent, of the premises where the proposed Marijuana Facility will be located certifying that the property owner has been provided with and reviewed a complete copy of the application and consents to use and occupancy of the premises as a Marijuana Facility as described and referenced in the application.
- f. A detailed description of the proposed security plan for the facility including identification of all proposed security measures, equipment and devices. A security plan shall comply with rules and security regulations adopted pursuant to Section 206 of the Act. Security plans require review and approval by the Chief of Police. The Chief of Police may require review and recommendation of a proposed security plan by an independent consultant with credentialed expertise in the field of site/facility security measures. The cost of an independent review by an independent security consultant shall be paid by the applicant.
- g. A Marijuana Facility shall not be located less than one thousand feet (1000') from a school, day care center, recreational facility, church, public or private park. The minimum required distance of 1,000 feet shall be measured as the shortest distance between the principal building unit that is occupied by the regulated use to the nearest property line of the protected use. For purposes of this ordinance "School" means any public or private school meeting all requirements of the compulsory education laws of the state.
- h. Unless otherwise authorized pursuant to any rules adopted pursuant to Section 206 of the Act, all facility operations, transactions and activities shall be

conducted within an enclosed structure. Other than waste disposal, outdoor storage is prohibited.

- i. An area map, drawn to scale, shall be provided indicating, within a radius of one thousand feet (1,000 ft.) from the boundaries of the proposed Dispensary site, the proximity of the site to any school, existing dispensary, day care center, recreational facility, church, public or private park;

E. Action by Planning Commission. The Planning Commission shall review the proposed application for a medical marijuana facility, together with any reports and recommendations from staff, the Township Department heads, the Township Planner, other Township consultants, and any public comments. The Planning Commission shall identify and evaluate all relevant factors, and shall report its findings and recommendation in writing to the Township Board.

F. Following the procedure discussed in section 1004(E), the Township Board shall then make a determination based on the requirements of this Ordinance and the Township Zoning Ordinance, including the standards contained in Section 1102(G) of the Township's zoning ordinance, Standards for Special Use Approval. The Township Board is authorized to table, approve, approve subject to conditions or deny the special use as outlined in Section 1102(C) (a-d).

G. An application for site plan approval of a Marijuana Facility that is materially incomplete or would result in a violation of state or local law shall be denied. Approval of a site plan for a Marijuana Facility does not guarantee, represent or imply approval of a Marijuana Facility Operating License or any other permit or local approval that may be required by Township codes or ordinances for the proposed facility.

#### **Section 1005. License Renewal**

A. A Township operating license expires one (1) year after issuance or renewal.

B. A Township operating license shall be renewed if:

- a. The Township Licensee submits written request for renewal to the Township on any forms prescribed by the Township on or prior to expiration and pays the yearly operating fee;
- b. The Township Superintendent, or his/her designee, verifies that at or immediately prior to expiration, the information, conditions and representations contained in the original approved application remain materially correct, true and accurate;
- c. The State operating license for the Marijuana Facility has not been suspended or revoked;
- d. The Marijuana Facility passes inspection and is in compliance with all applicable laws, local building codes, ordinances and zoning regulations;

C. If a renewal application is not submitted on or before the expiration date, the Township operating license may be renewed within 60 days after expiration upon application and

payment of the renewal application fee. If the Township operating license is renewed within 60 days after expiration, the Township Licensee may continue to operate under the expired Township operating license during the 60 days following expiration.

- D. An approved renewal of a Township operating license shall be held in escrow by the Township until the Applicant provides, or the Township receives, written verification that the Township Licensee has obtained:
- a. A valid renewal of a State operating license for a Marijuana Facility authorized by the Township operating license including identification of the true party in interest named as the State Licensee, and;
  - b. Payment of the annual operating fee, and;
  - c. The Marijuana Facility passes all required inspections. In the event the Township Licensee fails to provide verification of the above requirements within 60 days of notification of approval of a renewed Township operating license, the renewal of the Township operating license shall be deemed canceled unless the Township extends the time for providing verification of the above requirements upon a showing of good cause. Upon obtaining timely verification of the above requirements and receipt of the Township Licensee's annual operating fee, the Township shall deliver the renewed Township operating license to the Township Licensee. An approved renewal of a Township operating license shall not be valid until delivered to the Township Licensee by the Township and the Township Licensee pays all required fees.

#### **Section 1006. Location Requirements**

- A. No person shall reside or permit any person to reside in or on the premises of a medical marijuana facility.

#### **Section 1007. Operational Requirements**

- A. No permit issued under this section shall be transferrable unless first approved by the State Medical Marijuana Licensing Board.
- B. A person or entity who/which receives a permit under this section shall display its permit and, when issued, its State Operating License in plain view clearly visible to Township Officials and State Medical Marijuana Licensing Board authorized agents.
- C. Permit Holders shall at all times maintain a security system that includes the following:
- a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the property;
  - b. **Robbery and Burglary alarm systems, which are monitored 24 hours per day;**
  - c. **All medical marijuana in any form whatsoever stored at the property shall be kept in a secure manner and shall not be visible from the outside of the property.**
- D. The sale, consumption or use of alcohol or tobacco products on the permitted premises is prohibited.
- E. No provisioning center shall operate between the hours of 8:00 p.m. and 8:00 a.m.

Section 1008. Revocation

- A. A permit issued under this section may be revoked for any of the following reasons:
  - a. Fraud or misrepresentation contained in the permit application;
  - b. Any known violation of this ordinance;
  - c. Loss of the Applicant's State of Michigan Operating License;
  - d. Failure of the Applicant to obtain a State of Michigan Operating License within a reasonable time after obtaining a permit under this section;
  - e. Conducting business in an unlawful manner, or, in such a way as to constitute a menace to the health, safety or general welfare of the public or community.

**Section 1009. 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, the Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the Ordinance.
- C. This Ordinance shall be enforced and administered by the Township Superintendent or other Township official as may be designated from time to time by resolution of the Township Board.

**Section 1010. Severability.**

In the event that 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 section, provisions, phrases or words of this Ordinance.

**Section 1011. Effective Date**

This Ordinance shall take effect immediately following its adoption and publication as required by law.

ADOPTED:

YEAS: Supervisor Dillard, Clerk Campbell, Trustees' Curry, Jernigan, Mckinnie

NAYS: Trustee Payton

ABSENT: Treasurer Bibbs

This Ordinance is hereby declared to have been adopted by Buena Vista Charter Township Board, County of Saginaw, State of Michigan, at a regular meeting held on the 30th day of April, 2018, and ordered to be given publication in the manner prescribed by law.



  
Christina L. Dillard, Supervisor

  
Barbara Campbell, Clerk

STATE OF MICHIGAN)

COUNTY OF SAGINAW)

I the undersigned Township Clerk for Buena Vista Charter Township, Saginaw County, Michigan, certify that the above Ordinance No. 271, adopted by the Township Board of Trustees of the Township on the 30th day of April, 2018, was recorded in full in the Minutes of the Meeting of the Township Board of Trustees on said date. It was signed by the Supervisor and Clerk of the Township.

Dated: May 11, 2018

  
Barbara Campbell, Buena Vista Charter Township Clerk

Date of Publication: May 10, 2018

Newspaper: The Saginaw News