

MEDICAL MARIHUANA FACILITIES ORDINANCE

TOWNSHIP OF KAWKAWLIN
COUNTY OF BAY, STATE OF MICHIGAN

ORDINANCE NO: 102517

AMENDED: May 14, 2018

EFFECTIVE: May 23, 2018

MEDICAL MARIHUANA FACILITIES ORDINANCE

An ordinance to provide a title for the ordinance; to define words; to authorize the operation of and provide regulations for medical marihuana facilities in Kawkawlin Township pursuant to Public Act 281 of 2016, as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

THE TOWNSHIP OF KAWKAWLIN
BAY COUNTY, MICHIGAN ORDAINS:

SECTION I
TITLE

This ordinance shall be known as and may be cited as the Kawkawlin Township Medical Marihuana Facilities Ordinance.

SECTION II
DEFINITIONS

Words used herein shall have the definitions as provided for in PA 281 of 2016, as may be amended.

SECTION III
AUTHORIZED MEDICAL MARIHUANA FACILITIES

1. The following medical marihuana facilities may be authorized to operate within the Township by the holder of a state operating license, subject to compliance with PA 281 of 2016, as may be amended, the Rules promulgated thereunder and this ordinance:

a) Not more than **70** grower(s) shall be authorized in the Township, which number shall include all of the following Class A, Class B and Class C growers authorized in the Township:

1. Not more than **10** Class A growers (500 marihuana plants) may be authorized in the Township.
2. Not more than **10** Class B growers (1,000 marihuana plants) may be authorized in the Township.
3. Not more than **50** Class C growers (1,500 marihuana plants) may be authorized in the Township.

- b) Not more than 10 processor(s) shall be authorized in the Township.
- c) Not more than 25 provisioning center(s) shall be authorized in the Township.
- d) Not more than 6 safety compliance facility(ies) shall be authorized in the Township.
- e) Not more than 5 secure transporter(s) shall be authorized in the Township.

The Township Board may review and amend these numbers by resolution annually or as it determines to be advisable

2. On and after, November 20, 2017, the Township shall accept applications for authorization to operate a medical marihuana facility within the Township. Application shall be made on a Township form and must be submitted to the Township Clerk and/or other designee of the Township Board (hereinafter referred to as "Clerk"). Once the Clerk receives a complete application including the initial annual medical marihuana facility fee, the application shall be time and date stamped. Complete applications shall be considered for authorization in consecutive time and date stamped order. Upon consideration, if the facility type authorization is available within the number specified above, then the applicant shall receive conditional authorization to operate such medical marihuana facility within the Township. Once the limit on the number of an authorized facility is conditionally reached, then any additional complete applications shall be held in consecutive time and date stamped order for future conditional authorization. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Clerk at any time and receive refund of the initial annual medical marihuana fee submitted.

3. Within ninety (90) days from conditional authorization from the Township or from December 15, 2017, whichever is later, the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied for prequalification from the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.

4. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.

5. A conditionally authorized applicant shall receive full authorization from the Township to operate the medical marihuana facility within the Township upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the medical marihuana facility in the Township and the applicant has met all other requirements of this ordinance for operation including but not limited to any zoning approval for the location of the facility within the Township.

6. If a conditionally authorized applicant fails to obtain full authorization from the Township within one year from the date of conditional authorization, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein. The Township Board shall have authority to extend the deadline to obtain full authorization for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Township Board finding good cause for the extension.

7. A Permit and a Renewal Permit Shall not confer any vested rights or reasonable expectations of subsequent renewal on the Applicant or Permit Holder, and shall remain valid only until the expiration date of the permit immediately following its approval.

8. Each year, any pending Application for renewal or amendment of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered.

9. It is the sole and exclusive responsibility of each Permit Holder or Person applying to be a Permit Holder at all times during the Application period and during its operation to immediately provide the Township with all material changes in any information submitted on an Application and any other changes that may materially affect any state License or its Township Permit.

10. No permit issued under this Ordinance may be assigned or transferred to any Person unless the assignee or transferee has submitted an Application and all required fees under this Ordinance and has been granted a Permit by the Township Board. No Permit issued under this Ordinance is transferrable to any other location except for the Permitted Premises on the Permitted Property.

11. 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.

12. 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, any other local regulations, and with the Permit.

SECTION IV
GENERAL REGULATIONS REGARDING
AUTHORIZED MEDICAL MARIHUANA FACILITIES

1. An authorized medical marihuana facility shall only be operated within the Township by the holder of a state operating license issued pursuant to PA 281 of 2016, as may be amended, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.

2. Prior to operating an authorized medical marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township zoning ordinance regulations. The facility shall only be operated as long as it remains in compliance with all Township zoning ordinance regulations.

3. Prior to operating an authorized medical marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township construction and building ordinances, all other Township ordinances specifically regulating medical marihuana facilities, and generally applicable Township police power ordinances. The facility shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.

4. An authorized medical marihuana facility shall consent to inspection of the facility by Township officials and/or by the County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.

5. If at any time an authorized medical marihuana facility violates this ordinance the Township Board may request that the state revoke or refrain from renewing the facility's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the Township authorization and the authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.

6. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized medical marihuana facility a vested right, license, privilege or permit to continued authorization from the Township for operations within the Township.

7. The Township expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized medical marihuana facilities authorized to operate within the Township.

SECTION V
AMEDICAL MARIHUANA FACILITY OPERATIONAL REQUIREMENTS

1. Commercial Medical Marihuana Facilities shall comply with all respective applicable codes of the local zoning, building, and health Department. The Facility must hold a valid local Permit and State Commercial Marihuana Facility License for the type of Commercial Medical Facility intended to be carried out on the Permitted Property. The facility operator, owner or Licensee must have documentation available that the local and State sales tax requirements, including holding any licenses, if applicable, are satisfied.

2. Each Commercial Medical Marihuana Facility shall be operated from the Permitted Premises on the Permitted Property. No Commercial Medical Marihuana 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 Marihuana. No person under the age of eighteen (18) shall be allowed to enter into the Permitted Premises without a parent or legal guardian.

3. Permit holders shall at all times maintain a security system that meets State law requirements.

a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the permitted Premises.

b. A permanently affixed safe shall store all cash remaining in the Facility overnight.

c. All Marihuana in whatever form stored at the Permitted Premises shall be kept in a secure manner and shall not be visible from outside, nor shall it be grown, processed, exchanged, displayed or dispensed outside.

d. All security recordings and documentation shall be preserved for at least 48 hours by the Permit Holder and made available to any law enforcement upon request for inspection.

4. Provisioning Centers may operate only between the hours of 8:00 a.m. and 8:00 p.m.

5. Commercial Medical Marihuana Facilities may not be located within one thousand (1000) feet from any educational institution or school, college or university, church, house of worship or other religious facility registered with the Township and holding worship services on site prior to Medical

Marihuana Facilities Application being submitted or public or private park, with the minimum distance between uses measured horizontally between the nearest property line. Cemeteries are exempt as religious facilities.

6. No pictures, photographs, drawings or other depictions of Marihuana or Marihuana paraphernalia shall appear on the outside of Permitted Premises nor be visible outside. The words “Marihuana”, “cannabis” and any other words used or intended to convey the presence or availability of Marihuana shall not appear on the outside of the Permitted Premises nor be visible outside of the permitted Premises on the Permitted Property.

7. The sale, consumption or use of alcohol or tobacco products on the Permitted Premises is prohibited. Smoking or consumption of controlled substances, including Marihuana, on the Permitted Premises is prohibited.

8. All activities of Commercial Medical Marihuana Facilities, including without limitation, distribution, growth, cultivation, or the sale of Marihuana, and all other related activities permitted under the Permit Holder’s License or Permit must occur indoors. The Facilities operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside of the Permitted Premises.

9. No person operating a Facility shall provide or otherwise make available Marihuana to any person who is not legally authorized to receive Marihuana under state law.

10. All necessary building, electrical, plumbing and mechanical permits must be obtained for any part of the Permitted Premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marihuana are located.

11. The Permit Holder, owner and operator of the Facility shall use lawful methods in controlling waste or by products from any activities allowed under the License or Permit.

SECTION VI
ANNUAL MEDICAL MARIHUANA FACILITY FEE

There is hereby established an annual nonrefundable Township medical marihuana facility fee in the amount of \$5,000.00 for each authorized medical marihuana facility within the Township, to help defray administrative and enforcement costs associated therewith. An initial annual medical marihuana facility fee of \$5,000.00 shall be payable at the time of application for Township authorization and thereafter the same amount shall be payable each year by the anniversary of the date of full Township authorization to operate the medical marihuana facility.

SECTION VII
VIOLATIONS AND PENALTIES

1. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.

2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court. For purposes of this section, "subsequent offenses"

means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.

3. Each day during which any violation continues shall be deemed a separate offense.

4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.

5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person (s) as designated by the Township Board from time to time.

SECTION VIII
SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing medical marihuana facilities pursuant to PA 281 of 2016, as may be amended.

SECTION IX
REPEAL

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION X
EFFECTIVE DATE

This ordinance shall take effect immediately after publication upon adoption

At a regular meeting of the Kawkawlin Township Board, Bay County, Michigan, held at the Kawkawlin Township meeting room on February 12, 2017, at 7:00 p.m., Township board member Klass moved to adopt the above Ordinance, which motioned was seconded by Township Board member Petrimoulx.

YEAS: Petrimoulx, McNally, Klass, Macconnell, Bragiel

NAYS: None

ABSENT/ ABSTAIN: None

ORDINANCE DECLARED ADOPTED

Dennis J Bragiel, Township Supervisor

