

TOWNSHIP OF SHARON
COUNTY OF WASHTENAW,
MICHIGAN

ORDINANCE NO. _____

**AN ORDINANCE TO AUTHORIZE AND REGULATE
STATE-LICENSED MEDICAL MARIJUANA FACILITIES AND
TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF**

THE TOWNSHIP OF SHARON ORDAINS:

Section 1. **Short Title.** This ordinance shall be known and may be cited as the Sharon Township Medical Marijuana Facilities Ordinance.

Section 2. **Definitions.** As used in this ordinance:

(a) “Act 281” or the “Act” means the Michigan Medical Marijuana Facilities Licensing Act, Act 281 of the Public Acts of Michigan of 2016, as amended.

(b) “Applicant” means a person who applies or who has applied for a state operating license and a Township marijuana facility permit.

(c) “Grower” means a licensee that is a commercial entity that cultivates, dries, trims or cures and packages marijuana for sale to a processor or provisioning center.

(d) “Licensee” means a person holding a state operating license.

(e) “Marijuana” or “Marihuana” means that term as defined in Section 7106 of the Michigan Public Health Code.

(f) “Marijuana Licensing Board” means the Medical Marijuana Licensing Board established under Section 301 of Act 281.

(g) “Marijuana Facility” means a licensee’s location and operations under the licensee’s state operating license.

(h) “Marijuana Plant” means any plant of the species *Cannabis sativa* L.

(i) “Marijuana-Infused Product” means an edible substance or similar product containing marijuana that is intended for human consumption in a manner other than smoke inhalation.

(j) “Michigan Medical Marihuana Act” or “MMMA” means the Michigan Medical Marihuana Act of 2008, as amended.

(k) “Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legal entity.

(l) “Processor” means a licensee that is a commercial entity that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.

(m) “Provisioning Center” means a licensee that is a commercial entity that purchases marijuana from a grower or processor and sells, supplies or provides marijuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property at which marijuana is sold at retail to registered qualifying patients or registered primary caregivers. A non-commercial location used by a primary caregiver to assist a qualifying patient is not a provisioning center for purposes of this ordinance.

(n) “Registered Primary Caregiver” means a primary caregiver who has been issued a current registry identification card under the MMMA.

(o) “Registered Qualifying Patient” means a qualifying patient who has been issued a current registry identification card under the MMMA.

(p) “Registry Identification Card” means that term as defined in Section 3 of the MMMA.

(q) “Rules” means the rules promulgated under the Michigan Administrative Procedures Act, to implement Act 281.

(r) “Safety Compliance Facility” means a licensee that is a commercial entity that receives marijuana from a marijuana facility or registered primary caregiver, and tests it for contaminants and other adverse substances; returns the test results to the party requesting the testing; and may return the tested marijuana to the marijuana facility that submitted the marijuana.

(s) “Secure Transporter” means a licensee that is a commercial entity that stores marijuana and transports marijuana between marijuana facilities for a fee.

(t) “State Operating License” means a license that is issued under Act 281 that allows the licensee to operate as one of the following, specified in the license: a grower, processor, secure transporter, provisioning center or safety compliance facility.

(u) “Statewide Monitoring System” means the Internet-based, statewide database established and maintained by the State Department of Licensing and Regulatory

Affairs under the Michigan Marijuana Tracking Act, Act 282 of the Public Acts of Michigan of 2016, as amended, for the purpose of enabling authorized parties and agencies to confirm or verify relevant information with respect to medical marijuana uses authorized by Act 281.

(v) “Usable Marijuana” means the dried leaves, flowers, plant resin or extract of the marijuana plant, but does not include the seeds, stalks and roots of the plant.

Section 3. Authorized Marijuana Facilities.

(a) The following types of marijuana facilities may be established and operated by a licensee in the Township, subject to compliance with Act 281, the Rules promulgated thereunder and this ordinance:

(i) Four (4) Growing Facilities

(ii) Four (4) Processing Facilities

(b) Not more than four (4) growing facilities and four (4) processing facilities shall be established, operated or permitted in the Township. A growing facility and a processing facility may be together on one property so long as both facilities have licenses and permits and only one structure will be used to house both facilities and the structure size complies with this ordinance.

(c) A marijuana facility shall be established and operated only by a person who has been issued a state operating license. The facility shall be operated only so long as the state operating license remains in effect and only in accordance with the terms of the license.

(d) A marijuana facility shall be established only by a person who has been issued a Township permit under the terms of this ordinance. The facility shall be operated only so long as the Township permit remains in effect and only in accordance with the terms of the permit.

(e) A marijuana facility shall not be operated in any Township district zoned residential.

(f) A marijuana facility shall comply with the applicable provisions of the Township construction codes. Permits under such codes shall be secured if required.

(g) A marijuana facility shall not be a home occupation under the terms of the zoning ordinance.

(h) A medical marijuana facility may not be located within ½ mile of: (1) a public or private elementary, junior, senior, vocational, or secondary school; (2) a public library; or (3) a church or a religious institution.

(i) The facility must be licensed by the State of Michigan and must be in compliance at all times with the laws of the State of Michigan, including, but not limited to, the Michigan Medical Marijuana Act, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marijuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by Michigan LARA, the MDEQ, and the State of

Michigan. Every applicant must submit a photocopy of the applicant's valid and current property and liability insurance, and the Medical Marijuana Facility license issued by the State of Michigan in accordance with the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.

Section 4. Township Marijuana Grower Permit.

- (a) The Township shall issue not more than four (4) marijuana grower permits.
- (b) A marijuana grower permit shall authorize the holder of the permit to grow only the maximum number of marijuana plants as permitted by the growers Class A, B or C license.
- (c) The permit shall be valid only as long as the grower's state license is in effect.
- (d) A grower shall enter all marijuana transactions, its current marijuana inventory and all other required information into the statewide monitoring system as required by the Medical Marijuana Facilities Licensing Act.
- (e) A grower shall operate in the Township only so long as its Township permit is in effect and only in accordance with this ordinance.
- (f) A grower shall operate only on the property and at the address specified in the grower's permit.
- (g) A grower shall sell marijuana, other than marijuana seeds, only to a processor or provisioning center.
- (h) A grower shall transport marijuana offsite only to a processor or provisioning center and only by means of a licensed secure transporter.

Section 5. Township Processor Permit.

- (a) The Township shall not issue any more than four (4) marijuana processor permits.
- (b) The marijuana processor permit shall be valid only so long as the processor's state operating license is in effect.
- (c) A marijuana processor shall operate only so long as its Township permit is in effect and only in accordance with the terms of the permit and this ordinance.
- (d) A processor shall operate only on the property and at the address specified in the processor's permit.
- (e) The processor permit shall authorize the sale of marijuana or marijuana-infused products only to a provisioning center.
- (f) A processor shall transport marijuana offsite only by means of a licensed

secure transporter.

(g) A processor shall enter all marijuana transactions, its current marijuana inventory and other required information into the statewide monitoring system as required by the Medical Marijuana Facilities Licensing Act.

Section 6. Township Marijuana Facility Permits.

(a) A marijuana facility shall be established and operated in the Township only if permitted under the terms of this ordinance.

(b) A person shall apply for a marijuana facility permit on a Township application form, and shall pay the prescribed application fee, and shall make any required escrow deposit, toward payment of Township expenses in the matter, at the time of application.

(c) The application shall include the following information and other submittals, and such other information as the Township may require in order to verify compliance with Act 281, the Rules and this ordinance:

(i) The applicant's name, home and business addresses, e-mail address, and telephone number(s).

(ii) The address, legal description and permanent parcel number of the property on which the marijuana facility is proposed to be located.

(iii) The name and address of the owner of record of the property on which the marijuana facility is to be located, if not owned by the applicant, and a signed copy of the lease or other legal instrument whereby the owner has permitted the applicant to establish and operate the proposed marijuana facility on the property.

(iv) The type of marijuana facility, under Act 281, for which the applicant seeks a permit.

(v) A copy the applicant's current State of Michigan operating license which shall be provided to the Clerk of the Township prior to construction or the commencement of any marijuana facility operations.

(vi) A complete site plan of the property on which the marijuana facility

would be located and operated. The contents of the site plan shall include the location, shape, area and dimensions of the property; the location, outline, square footage and dimensions of all existing and proposed structures; and a description of the proposed uses for each building and structure, except such components as are determined by the Township Clerk to be not relevant or necessary for the purpose of issuance of the permit under this ordinance.

The application shall be submitted to the Township clerk or the Clerk's designee.. It shall be subject to the approval of the Board of Trustees consistent with this ordinance, Act 281 and the Rules promulgated by the state.

(d) Upon receiving an application, the clerk shall review it to determine whether it is complete under the terms hereof and the Act. If it is not complete, the clerk shall return the application, the application fee and any escrow deposit to the applicant. An incomplete application that is returned by the clerk shall not be deemed submitted and shall not have precedence of consideration over any other application.

(e) Upon determining that an application is complete, the clerk shall assign a number to it, based on the order in which it was received. Other applications, if any, may be received, but they shall be reviewed for completeness only in the order received, and, if complete, shall be considered for approval of a permit only in the order received, and only if a permit for the same type of marijuana facility is then available.

(f) The Township Board shall approve an application, deny it, or approve it with conditions in the permit necessary to verify or assure compliance with this ordinance and the Act. In considering issuance of a permit, the clerk shall apply the following standards:

(i) The marijuana facility shall comply with Act 281, other applicable state laws and the Rules.

(ii) The marijuana facility shall comply with this ordinance.

(iii) The location of the marijuana facility shall comply with applicable provisions of the Township zoning ordinance.

(iv) The site plan of the marijuana facility shall comply with the applicable site plan requirements for such a facility under the terms of this ordinance.

(v) An applicant who has demonstrated experience in owning and/or operating some type of marijuana facility, or who has had demonstrated experience as a registered primary caregiver, may be given preference for issuance of a permit over other less experienced applicants.

(g) If the application is approved, the clerk shall issue a marijuana facility permit to the applicant on a Township permit form for such purpose, after the applicant has paid the marijuana facility fee for the one-year duration of the permit. If the applicant has not paid the facility fee within 10 days after written notice that the application has been approved, the application shall no longer be approved and the applicant shall be notified in writing accordingly.

The permit shall include terms and conditions consistent with this ordinance, any conditions imposed by the Clerk or the Board of Trustees, and such other provisions as are relevant to the type of marijuana facility, the location thereof and anticipated operations.

(h) If the application is denied, the clerk shall so inform the applicant by letter, which shall include the reasons for the denial.

(i) An applicant shall have the right to appeal a permit denial to the Township Board. The appeal shall be submitted in writing and shall state the grounds for appeal and other relevant information the applicant may include. The written appeal shall be submitted not later than 10 days after the date of the clerk's written denial of the application; if the written appeal is not received by the clerk by that time, the right of appeal shall have lapsed and be of no further effect.

(j) The applicant's appeal shall be scheduled to be heard at a Township Board meeting. The applicant shall be given at least 10 days' written notice of the date, time and place for the hearing of the appeal. At the appointed time, the applicant may address the Board concerning the appeal. The written decision on the appeal, whether by motion or resolution, shall be forwarded to the applicant.

(k) The permit shall be for a period not longer than one year.

(l) The permit shall be renewable annually with approval of the Township Board. A permit holder desiring renewal shall apply for the same by completing a Township form for such purpose, shall pay any required renewal fee and shall make any required escrow deposit for reimbursement of Township expenses in the matter.

(i) With the renewal application, the applicant shall submit either a revised site plan, if any of the elements of the previously submitted site plan have changed, or otherwise the applicant shall submit a statement that the previous site plan remains accurate as to the matters depicted therein.

(ii) The Township Board shall consider the renewal application in the same manner and under the same requirements as for an original application, except that in considering the renewal, the clerk may consider any violations on the part of the applicant during the previous period of the permit.

(iii) The Township Board shall approve the renewal application, reject it, or approve it with conditions. If approved, a new permit, for a period of one year, shall be issued to the applicant. If rejected, the clerk shall state the grounds thereof in a letter to the applicant. Any such rejection shall be appealable to the Township Board.

(iv) Upon receiving a renewed permit, the applicant shall pay to the Township the annual marijuana facility fee. The renewed permit shall not be valid until the fee is paid.

(m) By accepting a permit, the applicant shall consent to inspection of the applicant's marijuana facility by Township officials and/or by the Michigan State Police and/or Washtenaw County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance and the Act. Such inspection may include examination of the applicant's submissions of information into the statewide monitoring system. A Medical Marijuana Facility shall be available for inspection upon request by the Zoning Administrator, Building Official, Enforcement Officer, Fire Department, or State and Local Law Enforcement Officials for compliance with all applicable laws and rules.

(n) Information that the Township obtains from an applicant relating to a Township permit under this Section is exempt from disclosure under the Michigan Freedom of Information Act, in accordance with Section 205 of Act 381. Neither the clerk nor other Township official or employee shall disclose any such information in response to a Freedom of Information Act request. All papers and other materials received from an applicant, prepared by the Township or other materials, including e-mails and other electronic-based materials, shall be filed separately from other Township files.

Section 7. Annual Marijuana Facility Fee. There is hereby established an annual nonrefundable Township marijuana facility fee (the "facility fee") in the amount of \$5,000, for each permitted marijuana facility. Said fee shall be to defray the costs incurred by the Township for inspection, administration, and enforcement of the local regulations regarding a Medical Marijuana Facility. If both a growing facility and a processing facility are located together at one location, each shall have a permit under this ordinance and each shall pay the annual facility fee. Timely payment of the fee is a condition of the marijuana facility permit.

Section 8. Standards for Operations

1. **Minimum lot size.** A minimum lot size shall be applied as follows:
 - (a) The subject property on which the facility will be located shall be a minimum of 10 acres.
2. **Minimum Yard depth/distance from Lot Lines.** The minimum front setback for any structure used for marijuana production shall be 250 feet. The rear, and side yard setbacks for any structure used for marijuana production shall be 100 feet.
3. **Indoor Production and Processing.** Marijuana growing, production and processing shall be located entirely within one completely enclosed building.
4. **Maximum Building Floor Space.** A maximum of 10,000 square feet of building floor space may be used for any and all activities associated with marijuana growing, production and processing on the subject property. If two facilities are located on the same property, both facilities must operate within the maximum 10,000 square feet limitation.

5. Lighting. Lighting shall be regulated as follows:

- a. Light cast by light fixtures inside any building used for marijuana growing, production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.

6. Odor. As used in this subsection, building means the building, or portion thereof, used for marihuana production or marijuana processing.

- 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 charcoal 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 maintained in working order and shall remain 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 length of time needed to allow people to ingress or egress the building.
- f. An alternative odor control system is permitted if the special use permit applicant submits an alternative odor control system 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 the Township as to its comparability and whether, in the opinion of the expert, it should be accepted.

7. Location. A permitted facility must be at least 1.5 miles from another permitted facility held by another permit holder, except as permitted in Section 3(b) of this ordinance.

8. Landscaping. The property on which the facility is located shall be attractively landscaped so as to obscure view of the facility from public thoroughfares.

Section 9. **Reclamation, Abandonment or Cessation of permitted activities.**

- (a) A surety bond, irrevocable bank letter of credit, or security deposit in the amount of \$ 25,000 (or actual costs, whichever is greater) shall be filed upon issuance of the permit. A complete reclamation plan shall be filed with the Township Clerk consistent with this Section.

- (b) Upon abandonment or cessation of permitted activities of the licensed premises, the permit holder shall have 12 months to sell the permitted land to another licensed grower or processor. If the land is not sold within 12 months or converted to another use permitted by the Township ordinance, all structures built or maintained for the operation of the facility permit will be subject to the operator's reclamation plan. If the permit holder fails to implement the reclamation plan within eighteen (18) months after abandonment or cessation of permitted activities on the licensed premises , the surety bond, irrevocable bank letter of credit, or security deposit placed with the Township will be used by the Township to implement the reclamation plan. If the surety bond, irrevocable bank letter of credit, or security deposit does not cover the costs of the reclamation, the permit holder will be liable to the Township for all additional costs.

- (c) A successor purchasing a currently or previously licensed permitted premises is not entitled to a permit and must submit a new application and gain approval from the Township Board for a new permit before commencing operation on a premises. The acquisition of a permitted premises does not confer any permit rights upon the purchaser nor automatically qualify for a new permit from the Township.

- (d) The reclamation surety bond, irrevocable bank letter of credit, or security deposit, or what remains of it, will be released by the Township only after: the reclamation project is done; after a successor organization, if a Medical Marihuana Facility requiring a State Operating License, posts a new bond; a purchaser other than a Medical Marihuana Facility requiring a State Operating License has purchased the permitted premises.

Section 10. **Violations and Penalties.**

(a) A violation of this ordinance is a municipal civil infraction, for which the fines shall be not less than \$250 for the first violation and not less than \$500 for a subsequent violation, and in addition to all other costs and expenses provided by law. For purposes of this Section, a subsequent offense means a violation of the provisions of this ordinance committed by the same person within six months of a previous violation of the same provision for which the person admitted responsibility or was determined to be responsible.

(b) Each day during which any violation continues shall be deemed a separate offense.

(c) In addition, the Township may seek injunctive relief against any person or persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.

(d) The Township ordinance enforcement officer is authorized to issue municipal civil infraction citations for any violation of a provision of this ordinance if the officer has reasonable cause to believe that an infraction has occurred.

(e) Citations shall be numbered consecutively and shall be in a form approved by the State Court Administrator's Office.

(f) Citations shall be served on the alleged violator as provided by law.

(g) Citations shall require an appearance at the district court within a reasonable time after the citation has been issued.

(h) The procedures for the admission or denial of responsibility, request for informal or formal hearings and all other matters relating to processing of citations for civil infractions shall be as provided by law.

Section 11. **Revocation of Permit.**

(a) A marijuana facility permit may be revoked by the Township Board for noncompliance with Act 281, other applicable state laws and Rules, this ordinance, the zoning ordinance or other applicable Township ordinances. Such revocation shall be in addition to the available remedies under Section 10.

(b) The clerk shall give written notice to the permit holder of the Township Board's intent to revoke the permit. The notice shall state the reasons for the proposed revocation. The notice shall state that the applicant may attend a hearing before the Township Board of Trustees, and may be heard, as to the revocation. At least 10 days' notice of the hearing shall be given; the notice shall state the date, time and place of the hearing. At or prior to the hearing, the applicant may submit written comments with respect to the proposed revocation.

(c) Following the hearing, the Township Board may, in writing, revoke the permit, elect not to revoke the permit or may impose additional terms and conditions in the permit for the purpose of gaining compliance as to the matters for which revocation was considered.

(d) The revocation of a permit shall not entitle the permit holder to any refund of the annual marijuana facility fee or other fees or charges paid under the terms of this ordinance; any unused escrow deposit amounts shall be returned.

(e) A permit holder may appeal the revocation of a permit to the Township Board, by filing a written appeal with the clerk within 10 days after the clerk has issued the written revocation, but there shall be no appeal after such period of time. The hearing of the appeal and the notice thereof shall be carried out under the same procedures and with the same notice as is provided in this ordinance for an appeal of a denial of a marijuana facility application.

Section 12. Publication and Effective Date. This ordinance shall become effective 30 days after the publication of a summary of its provisions in a local newspaper of general circulation in the Township.

11/3/17

Motion by Guysky to approve Medical Marijuana Facilities ordinance, supported by Cooper.

Roll Call Vote: Guysky: YES, Mikel: ABSTAIN, Psarouthakis: YES, Simons: YES, Cooper: YES.