

RICHMOND TOWNSHIP
OSCEOLA COUNTY, MICHIGAN
(Ordinance No. ___ Amendment to the Zoning Ordinance)
60-17 of 2017

At a regular meeting of the Township Board for Richmond Township held at the Township offices on Dec 19, 2017, beginning at 7⁰⁰ p.m., Township Board Member Edie Betzing made a motion to adopt this Ordinance/ordinance amendment, which motion was seconded by Township Board Member Ed Galloway.

**AN AMENDMENT TO THE RICHMOND TOWNSHIP
ZONING ORDINANCE TO ALLOW MEDICAL MARIJUANA
FACILITIES SUBJECT TO RESTRICTIONS AND REQUIRE-
MENTS.**

THE TOWNSHIP OF RICHMOND (the "TOWNSHIP") ORDAINS

Article 1. A new and additional Section 7.23 is hereby added to the Richmond Township Zoning Ordinance as follows:

Section 7.23 Regulations Concerning Medical Marijuana Facilities – Special Use Approval Required

a Intent

- (i) It is the intent of this Section to provide appropriate locations and reasonable restrictions for the cultivation and transfer of medical marijuana allowed by the Michigan Medical Marijuana Act, MCL 333.26421, *et seq.* This is a unique land use with ramifications not addressed by more traditional zoning district and home occupation regulations. Although some

specific uses of marijuana are allowed by the Michigan Medical Marihuana Act, marijuana continues to be classified as a Schedule I controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense marijuana

- (ii) It is the intent of this Section to protect the health, safety, and general welfare of persons and property by limiting land uses related to medical marijuana to zoning districts that are compatible with such uses. Additional regulations in this Section are intended to provide reasonable restrictions within zoning districts so that these uses do not comprise the health, safety, and general welfare of persons in the district, or other uses allowed in each zoning district.

- b. Definitions The following words and phrases shall have the following definitions when used in this Section.

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

"Department" means the Michigan Department of Community Health or government successor agency

"Grower" means a licensee that is a commercial entity located in this state

that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.

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

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

“Marijuana 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 marijuana 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.*, or medical marijuana home occupations or a dwelling unit in which marijuana is being cultivated for a qualifying patient who resides in the dwelling unit as permitted by this Ordinance.

“Medical marijuana home occupation” means an accessory use of a nonresidential nature that is conducted by a registered primary caregiver who resides in the dwelling and (a) is performed within a single-family dwelling or within an accessory building to that single-family dwelling; (b) is for the purpose of assisting one or more registered qualifying patients with the medical use of marijuana who do not reside in the dwelling; and (c) complies with the MMMA.

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

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

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

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

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

“Processor” means a licensee that is a commercial entity located in this

state that purchases medical marihuana from a grower and that extracts resin from the medical marihuana or creates a medical marihuana-infused product for sale and transfer in packaged form to a provisioning center.

“Provisioning center” means a licensee that is a commercial entity located in this state that purchases medical marihuana from a grower or processor and sells, supplies, or provides medical marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property where medical marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, is not a medical marihuana provisioning center for purposes of this Ordinance.

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

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

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

- c. Locations of medical marijuana facilities. Medical marijuana facilities may be

located in Richmond Township only in accordance with the following restrictions.

- (i) Medical marijuana provisioning centers and safety compliance facilities shall only be located in the Commercial and Industrial zoning districts and shall be special land uses
 - (ii) Medical marijuana processing, growers, and secure transporters facilities shall only be located in the Industrial zoning district and shall be special land uses
 - (iii) The district regulations tables in Section 3.6 of Chapter 3 are deemed amended accordingly.
- d Medical marijuana provisioning centers, secure transporting, and safety compliance facility regulations
- (i) Medical marijuana provisioning centers, secure transporting, and safety compliance facilities shall be licensed by the State of Michigan in accordance with Michigan P.A. 281 of 2016.
 - (1) *Hours.* A medical marijuana provisioning center, secure transport, and safety compliance facility may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center, secure transport, and safety compliance facility between the hours of 9:00 a.m. and 9:00 p.m.
 - (2) *Indoor Activities.* All activities of a provisioning center, secure transport, and safety compliance facility, including all transfers of

medical marijuana, shall be conducted within the structure and out of public view. Medical marijuana provisioning centers shall not have a walk-up window or drive-thru window service

- (3) *Other Activities.* Medical marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center, secure transport, and safety compliance facility.
- (4) *Nonconforming uses.* A medical marijuana provisioning center, secure transport, and safety compliance facility may not be located in a building in which a nonconforming retail use has been established.
- (5) *Physical Appearance.* The exterior appearance of the medical marijuana provisioning center, secure transport, and safety compliance facility structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
- (6) *Buffer Zones.* A medical marijuana provisioning center, secure transport, and safety compliance facility may not be located within the distance specified from the uses below. The distance shall be measured as the shortest straight line distance between the property line of the location of the following uses to the property line of the parcel on which the provisioning center, secure transport, and safety compliance premises is located, whichever is less. No medical marijuana provisioning center shall be located within 500 feet of real property composing or used by a public or private

elementary, vocational, or secondary school, a public or private college, junior college, or university; public park, public playground, public swimming pool, or public or private youth activity facility; public library; a licensed child care center or preschool; place of worship (including, for example, churches, synagogues, temples, mosques, etc.); any other medical marijuana provisioning center, secure transport, and safety compliance facility is located; or a parcel that is residentially-zoned

(ii) *Odor.* As used in this subsection, building means the building, or portion thereof, used for a medical marijuana provisioning center, secure transport, and safety compliance facility.

- (1) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
- (2) The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
- (3) The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
- (4) Negative air pressure shall be maintained inside the building.

- (5) Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building
- (6) An alternative odor control system is permitted if the special use applicant submits and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert should be accepted

(iii) *Other requirements.*

- (1) No person shall reside in or permit any person to reside in a medical marijuana provisioning center, secure transporting, and safety compliance facility.
- (2) No one under the age of 18 shall be allowed to enter a medical marijuana provisioning center, secure transporting, and safety compliance facility unless accompanied by a parent or guardian.
- (3) No smoking, inhalation, or consumption of marijuana shall take place on the premises.

- (4) Drive-in or Drive through medical marijuana provisioning centers, secure transporting, and safety compliance facilities shall be prohibited
- (5) No equipment or process shall be used in any medical marijuana provisioning center, secure transporting, or safety compliance facility which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal sense beyond the property boundary
- (6) A zoning compliance permit for medical marijuana provisioning, secure transporting, and safety compliance facilities shall be required
- (7) A site plan approval shall be required for medical marijuana provisioning, secure transporting, and safety compliance facilities.
- (8) Medical marijuana provisioning, secure transporting and safety compliance facilities shall comply with all other regulations of the zoning district in which the facility is located, except when they are in conflict, in which case this Section shall prevail
- (9) Medical marijuana provisioning, secure transporting and safety compliance facilities shall receive and hold a license issued by the Township and shall be operated in compliance with the MMMA
- (10) *Security Cameras*. Security cameras are required to be installed and

operated in medical marijuana provisioning, secure transporting and safety compliance facilities 24 hours per day, 365 days per year, and shall be directed to record only the subject property. Required security cameras may not be directed to public right-of-ways as applicable, except as required to comply with licensing requirements of the State of Michigan.

e Medical marijuana cultivation and processing facility regulations

- (i) Medical marijuana cultivation and processing facilities shall be licensed by the State of Michigan in accordance with Michigan P.A. 281 of 2016, and shall comply with the requirements of Township ordinances.
- (ii) *Indoor Production and Processing.* Marijuana cultivation and processing shall be located entirely within one or more completely enclosed buildings. Medical marijuana cultivating and processing shall be located entirely within a fully enclosed, secured, indoor facility or greenhouse with rigid walls, a roof, and doors. All activities of a medical marijuana cultivation and processing facility shall be conducted indoors.
- (iii) *Maximum Building Floor Space.* Medical marijuana cultivation and processing facilities shall comply with the following standards:
 - (1) A maximum of 50,000 square feet of building floor space may be used for all activities associated with marijuana cultivation and processing on the subject property.

- (2) If only a portion of a building is authorized for use in marijuana cultivation and processing, a partition wall at least seven feet in height, or a height as required by the applicable building codes, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marijuana production space and the remainder of the building.
- (iv) *Lighting.* Lighting for medical marijuana cultivation and processing shall be regulated as follows:
 - (1) Light cast by light fixtures inside any building used for medical marijuana cultivation or processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
 - (2) Outdoor medical marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
- (v) *Odor.* As used in this subsection, building means the building or portion thereof, used for medical marijuana cultivation or processing.
 - (1) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

- (2) The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - (3) The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - (4) Negative air pressure shall be maintained inside the building.
 - (5) Doors and windows shall remain closed, except for minimum length of time needed to allow people to ingress or egress the building.
 - (6) An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
- (vi) Security Cameras. Security cameras are required to be installed and operated in medical marijuana cultivation and processing facilities 24 hours per day, 365 days per year, and shall be directed to record only the subject property. Required security cameras may not be directed to public right-of-ways as applicable, except as required to comply with licensing.

requirements of the State of Michigan

- (vii) Residency. No person shall reside in or permit any other person to reside in a medical marijuana cultivation or processing facility.
- (viii) Additional requirements for medical marijuana cultivation and processing facilities
 - (1) No smoking, inhalation, or consumption of marijuana shall take place on the premises.
 - (2) No equipment or process shall be used in any medical marijuana cultivation or processing facility which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
 - (3) A zoning compliance permit for medical marijuana cultivation and processing facilities shall be required.
 - (4) Site plan approval shall be required for medical marijuana cultivation and processing facilities.
 - (5) A medical marijuana cultivation facility shall grow no more marijuana plants on the premises than allowed and licensed by Michigan P.A. 281 of 2016 as Class A, Class B or Class C facilities.

- (6) Medical marijuana cultivation and processing facilities shall comply with all other regulations of the zoning district in which the medical marijuana facility is located, except when they are in conflict, in which case this Section shall prevail
- (7) Medical marijuana cultivation and processing facilities shall receive and hold a license from the Township and shall be operated in compliance with the MMMA

f Special Land Use Requirements and Standards for Medical Marijuana Facilities

- (i) Medical marijuana facilities, in accordance with the provisions of state law, may be allowed through the issuance of a special land use approval provided that
- (ii) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the Township. In the event that a court with jurisdiction declares some or all of this Section invalid, then the Township may suspend the acceptance of applications for special land use permits for medical marijuana facilities pending the resolution of the legal issues in question
- (iii) At the time of application for a special land use permit, the marijuana facility must be licensed by the State of Michigan and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 *et*

seq.; the Medical 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 the State of Michigan

- (iv) At the time of application for a special land use permit, the marijuana facility must be licensed by the Township, or have a Township license concurrently in process with the special land use permit and site plan approval, and then must be at all times in compliance with all applicable Township ordinances
- (v) The use or facility must be at all times in compliance with all other applicable laws and ordinances of the Township
- (vi) The Township may suspend or revoke a special land use permit or approval based on a finding that the provisions of this Zoning Ordinance, the special use standards contained in this Section, all other applicable provisions of this Zoning Ordinance, other applicable Township ordinances or the terms of the special use approval or the approved site plan are not met
- (vii) A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this Ordinance

g. Cultivation or other medical use of marijuana as a medical marijuana home occupation in single-family dwellings.

- (i) In a single family dwelling in any zoning district, no more than 72 marijuana plants shall be grown on the premises, regardless of the number of registered primary caregivers and/or registered qualifying patients residing in the dwelling. The principal use of the single-family dwelling shall be a residential occupancy and shall be in actual use as such.
- (ii) Medical marijuana home occupations are not permitted in multiple-family dwellings and other non-single family dwellings

Article 2. The balance of the Richmond Township Zoning Ordinance remains unchanged and in full force and effect.

Except as expressly amended by this Ordinance/ordinance amendment, the Richmond Township Zoning Ordinance shall remain unchanged and in full force and effect

Article 3. Severability.

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

Article 4. Effective Date.

This Ordinance/ordinance amendment shall become effective upon the expiration of seven (7) days after this Ordinance/ordinance amendment (or a summary thereof) appears in the newspaper as provided by law.

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

YEAS

Blahn, Petting, Galloup, Stieg, Blood

AYS

None

ABSENT/ABSTAIN

None

ORDINANCE/ORDINANCE AMENDMENT DECLARED ADOPTED

CERTIFICATION

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

Linda Stieg

Respectfully submitted by Linda Stieg, Richmond Township Clerk