

DANBY TOWNSHIP

ORDINANCE NO. 2023-3

Adopted 3-23-2023

Effective Date 5-2-2023

**AN ORDINANCE TO REQUIRE AN ANNUAL PERMIT FOR
RECREATIONAL MARIHUANA ESTABLISHMENTS IN DANBY TOWNSHIP**

WHEREAS, THE TOWNSHIP OF DANBY, COUNTY OF IONIA, STATE OF MICHIGAN
ORDAINS:

Section 1: Title. This ordinance shall be known as the “Danby Township Recreational Marihuana Establishment Permitting Ordinance” and may be referred to as the “ordinance” herein.

Section 2: Purpose. It is the intent of this ordinance to authorize recreational marihuana establishments in Danby Township and to permit and regulate the allowable uses. This ordinance is intended to:

- A. Protect public health, safety, and welfare.
- B. Establish a set of rules and regulations that are fair and equitable for facilities authorized by the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (“MRTMA”).
- C. Provide reasonable regulation pursuant to the Danby Township general police power granted to townships by the Michigan Constitution of 1963 and the Township Ordinances Act, MCL 41.181 et seq.
- D. This ordinance does not apply to any registered primary caregiver or registered qualifying patient operating pursuant to the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq (“MMMA”).

Section 3: Definitions. As used in this ordinance:

- A. Applicant- A person who has applied for a Danby Township Recreational Marihuana Establishment Permit.
- B. Co-Location- The operation of separate facilities under the MMLFA or establishments under the MRTMA on the same lot or parcel.
- C. Designated Consumption Establishment- A term defined by the Michigan State Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA.
- D. Excess Marihuana Grower- A term defined by the Michigan State Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA.
- E. Marihuana- That term as defined in Section 7106 of the Michigan Public Health Code.

- F. Marihuana Event Organizer- A term defined by the Michigan State Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA.
- G. Michigan Regulation and Taxation of Marihuana Act (MRTMA)- Initiated Law 1 of 2018.
- H. Person- An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, or other legal entity.
- I. Recreational Marihuana Establishment- A marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the State of Michigan under the Michigan Regulation and Taxation of Marihuana Act.
- J. Recreational Marihuana Grower- A recreational marihuana establishment licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- K. Recreational Marihuana Microbusiness- A recreational marihuana establishment licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
- L. Recreational Marihuana Processor- A recreational marihuana establishment licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- M. Recreational Marihuana Retailer- A recreational marihuana establishment licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- N. Recreational Marihuana Safety Compliance Facility- A recreational marihuana establishment licensed to test marihuana, including certification for potency and the presence of contaminants.
- O. Recreational Marihuana Secure Transporter- A recreational marihuana establishment licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments
- P. Registered Primary Caregiver- A primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq (“MMMA”).
- Q. Registered Qualifying Patient- A qualifying patient who has been issued a current registry identification card under the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq (“MMMA”).
- R. State License- A license issued by the State of Michigan for establishments under the Michigan Regulation and Taxation of Marihuana Act.
- S. State Rules- Rules promulgated under the administrative procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement the Michigan Regulation and Taxation of Marihuana Act.
- T. Temporary Marihuana Event- A term defined by the Michigan State Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA.

U. Township- Danby Township.

V. Township Recreational Marihuana Establishment Permit- An annual permit issued by the Danby Township Board that authorizes the operation of a recreational marihuana establishment.

Section 4: Authorized Recreational Marihuana Establishments and Applicability.

A. The following recreational marihuana establishments, as authorized by the MRTMA, may be operated by a Danby Township Recreational Marihuana Establishment Permit holder in the Township, subject to the numerical limitations in Section 4(C):

1. Recreational marihuana grower class C.
2. Recreational marihuana processor.
3. Recreational marihuana retailer.
4. Recreational marihuana safety compliance facility.
5. Recreational marihuana secure transporter.

B. The following recreational marihuana establishments and operations are prohibited:

1. Recreational marihuana grower classes A and B.
2. Excess marihuana grower permits.
3. Designated consumption establishment.
4. Marihuana microbusiness.
5. Marihuana event organizer.
6. Temporary marihuana event.

C. Number.

1. The number of Danby Township Recreational Marihuana Permits in effect at any time shall not exceed the following maximums within the Township:
 - a. Recreational marihuana grower:
 - i. Class C (2,000 plants): 3 licenses.
 - b. Recreational marihuana processor: 3 licenses (must be on same parcel as grower establishment).
 - c. Recreational marihuana retailer: 1 license.
 - d. Recreational marihuana secure transporter: 1 license.
 - e. Recreational marihuana safety compliance facility: 1 license.
2. The Township Board may review and amend permit limits by amending this ordinance at any time.

Section 5: General Requirements.

- A. Recreational marihuana establishments shall comply with all applicable building and construction codes, zoning requirements, and all state laws and rules for the construction, design, and operation of the facility. Ongoing compliance with all applicable rules and regulations is required.
- B. Recreational marihuana establishments shall only be operated by a person who has been issued a state operating license in accordance with the MRTMA and a Danby Township Recreational Marihuana Establishment Permit. The recreational marihuana establishment shall be operated only so long as the state operating license and Danby Township Recreational Marihuana Establishment Permit remain valid and only in accordance with the terms of the permits.
- C. Stacked grower licenses are not permitted.
- D. Co-location in accordance with the MMFLA and MRTMA may occur, so long as compliant with zoning land use requirements and to the extent permitted by state law.
- E. Equivalent Licenses. Equivalent licenses may be operated at the same location within Township, subject to this Ordinance and to the extent permitted by state law.
 - 1. When a licensee holds equivalent licenses for a single property, each facility or establishment counts as a separate facility or establishment under this Ordinance and under the Township’s medical marihuana facility ordinance.
 - 2. Each licensed facility or establishment must meet all other requirements of this Ordinance, other Township ordinances, and the Township Zoning Ordinance. A separate application, application fee, and annual fee are required for each proposed licensed facility or establishment with equivalent licenses.
- F. A recreational marihuana establishment shall operate only on the property and at the address specified on the Danby Township Recreational Marihuana Permit and the state operating license.
- G. The Danby Township Zoning Ordinance shall specify the zoning districts in which a recreational marihuana establishment may be located and operated. A Danby Township Recreational Marihuana Establishment Permit shall not be issued to a recreational marihuana establishment located or operated in any zoning district which does not expressly authorize the use through the special land use process. A recreational marihuana establishment shall not be operated except in compliance with the Zoning Ordinance and all special land use and site plan approvals.

Section 6: Permitting and Inspections.

- A. A separate permit application is required for each recreational marihuana establishment proposed and for each state license, and fees shall be paid separately for each permit type in an amount established by resolution of the Township Board.
- B. A Danby Township Recreational Marihuana Establishment Permit must be renewed annually through re-application and payment of a required fee. Approval shall be

conditioned on the applicant's demonstration of a positive record of compliance with the requirements of the State of Michigan, this ordinance, and the requirements of the Zoning Ordinance. A renewal applicant is not subject to the competitive selection process under Section 8(D).

- C. The Danby Township Recreational Marihuana Establishment Permit and state permit must be displayed indoors in plain view clearly visible to Township officials.
- D. By accepting a Danby Township Recreational Marihuana Establishment Permit, the applicant shall consent to inspections of the applicant's recreational marihuana establishment by Township officials and/or by the Ionia Sheriff's Department to verify compliance with this ordinance.

Section 7: Application Requirements.

- A. An applicant shall apply for a Danby Township Recreational Marihuana Establishment Permit on a Township application form and shall pay a non-refundable fee in an amount established by resolution of the Township Board.
- B. The application shall include the following information, as well as any other information that may be requested by the Township to verify compliance with this ordinance:
 - 1. The applicant's name, address, e-mail address, and telephone number.
 - 2. The address, legal description, and permanent parcel number of the property on which the recreational marihuana establishment is proposed to be located.
 - 3. The name and address of the owner of record of the property on which the recreational marihuana establishment is to be located. If not owned by the applicant, a signed copy of the lease or other legal instrument whereby the owner has permitted the applicant to establish and operate the proposed recreational marihuana establishment on the parcel shall be provided.
 - 4. The type of recreational marihuana establishment which the applicant proposes.
 - 5. A copy of the applicant's state prequalification.
 - 6. Operations plan, including but not limited to the following information:
 - i. General narrative concerning business plans, objectives, and operations.
 - ii. Business structure.
 - iii. Organization and management.
 - iv. Odor control plans and system specifications.
 - v. Security plan overview.
 - vi. Waste management plan.

Section 8: Review Process.

- A. The application for a Danby Township Recreational Marihuana Establishment Permit shall be submitted to the Township Clerk during an applicable window established by a resolution of the Township Board.

- B. Upon receiving an application, the Clerk shall review it to determine whether it is complete under the terms of this ordinance. The Clerk may review this material in conjunction with Township officials, legal counsel, and consultants. If the application is not complete, the Clerk shall inform the applicant in writing. An incomplete application is not deemed to be an officially submitted application and shall not have precedence of consideration over any other application.
- C. Upon determining that an application is complete, the Clerk shall assign a number to it, based on the order in which it was received, and arrange for it to be presented to the Township Board. 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 Danby Township Recreational Marihuana Establishment Permit.
- D. In any application window, as defined in Section 8.A where the Township Board receives more applications than available permits, the Township Board, at an open meeting, shall use its discretion to select the applicant(s) that are best suited to operate in compliance with state laws and rules and this ordinance against the following competitive ranking system:
 - 1. Applicant holds a valid Danby Township Medical Marihuana Facility Permit for the proposed site (5 points).
 - 2. Business plan includes a schedule for communication and receiving feedback from all entities within 500 feet of the business at least once a year (5 points).
 - 3. Proposal includes the appointment of an employee as a designated liaison with the neighborhood (2 points).
 - 4. Proposal includes weekly inspection to ensure maintenance of the interior and exterior of the facility (2 points).
 - 5. Proposal includes documented employee safety training program (1 point).
 - 6. Proposal includes business practices relating to energy efficiency, water conservation, and materials/waste storage (3 points).
 - 7. Combined prior experience of proposed owners is more than 5 years of successful business management (1 point).
 - 8. Business qualifies as a Disadvantaged Business Enterprise (DBE) as defined by the U.S. Department of Transportation (1 point).
 - 9. Business promotes local hiring or provides incentives for Danby Township or Ionia County residents (2 points).
 - 10. Business provides employee health benefits for all employees (2 points).
 - 11. Business employs more than 5 people full-time, not counting the owners (2 points).
- E. The Township Board shall approve an Initial Danby Township Recreational Marihuana Establishment Permit only if the application satisfies all of the following conditions:
 - 1. The applicant is prequalified by the state for the type of facility proposed.
 - 2. The request is within the quota for the number of recreational marihuana establishments permitted by this ordinance.

3. The applicant has demonstrated that the recreational marihuana establishment will not impact public health, safety, and welfare.
 4. In case of renewal, there have been no material violations of the Township Recreational Marihuana Establishment Permit, this ordinance, and the special land use and site plan approval. A renewal applicant is not subject to the competitive selection process under Section 8(D).
- F. If the application is approved, the Township Board shall authorize and direct the Clerk to issue an Initial Danby Township Recreational Marihuana Establishment Permit approval notice to the applicant. This notice permit shall include terms and conditions consistent with this ordinance, any conditions imposed by the Township Board, and such other provisions as are relevant to the type of recreational marihuana establishment. An approved applicant must obtain a special use permit for the establishment.
- G. Once the Clerk has issued initial approval notices for all of the establishments of a given establishment type that would be permitted under Section 4, the Clerk will place other applications at the end of a waiting list for that establishment type. Applications shall be included on the waiting list in the rank determined by the Township Board pursuant to the competitive selection process under Section 8(D). The Clerk will keep and maintain the waiting list until the maximum number of establishments of the type to which the list pertains are operating in the Township, at which time the waiting list will be deemed automatically discarded. If an applicant's initial approval is cancelled, then the Clerk will issue initial approval to the next applicant on the waiting list.
- H. If the application is denied, the Clerk shall inform the applicant in writing, which shall include the reasons for the denial.
- I. A Final Danby Township Recreational Marihuana Establishment Permit shall not be effective until the applicant provides the Clerk with evidence that a state operating license for the recreational marihuana establishment was secured and that special land use and site plan approval was issued by the Township. If these approvals are not secured within 12 months of initial approval, the initial approval of the Danby Township Recreational Marihuana Establishment Permit shall be cancelled. If an initial Danby Township Recreational Marihuana Establishment Permit is cancelled, the number of available permits shall be increased accordingly to reflect the cancellation.

Section 9: Renewal and Transfers.

- A. A licensee must apply to renew its Recreational Marihuana Establishment Permit annually prior to the anniversary date of the initial permit approval. A permit holder desiring renewal shall apply for the same by completing a Township form for such purpose. The application for a Danby Township Recreational Marihuana Establishment Permit renewal shall be submitted to the Township Clerk no less than 60 days prior to its expiration.
- B. 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 Board may consider any violations of this ordinance or the Zoning Ordinance on the part of the applicant during the previous period of the permit. A renewal applicant is not subject to the competitive selection process under Section 8(D).

- C. The Danby Township Recreational Marihuana Establishment Permit issued under this ordinance may be transferred to a different business entity on the same site in accordance with Section 7 and 8 of this ordinance. A transfer may not occur within two years of the granting of a Final Danby Township Recreational Marihuana Establishment Permit if the original Applicant was granted a permit after competitive review over another Applicant or Applicant(s) that did not receive a permit during the same application window. This paragraph relates to the transferring, selling, or conveying of 10 percent or more of the ownership interest of the entity which was granted the permit. A transfer is not subject to the competitive selection process under Section 8(D).

Section 10: Fees.

A fee for a Danby Township Recreational Marihuana Establishment Permit shall be paid by the applicant for each permit and permit renewal at the time of application in an amount to be determined by resolution of the Township Board. This fee is established to cover administrative and enforcement costs associated with the permitting and inspections of recreational marihuana establishments within Danby Township.

Section 11: Violations and Penalties.

- A. Any person, partnership, corporation, or association who is found to have violated this ordinance shall be guilty of a municipal civil infraction.
- B. 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 (6) months of a previous violation of the same provision for which the person admitted responsibility or was determined to be responsible.
- C. 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.

Section 12: Revocation of Permit.

A. Revocation.

- 1. A Danby Township Recreational Marihuana Establishment Permit issued under this ordinance may be revoked by the Township Board for any of the following:
 - a. Fraudulent or material misrepresentation contained in the application.
 - b. A pattern of violations of this ordinance or the Zoning Ordinance, after reasonable notice and opportunity to abate the violation.
 - c. Violations of state law and rules.
 - d. Revocation of state license.
- 2. The revocation shall be in addition to the other available remedies under this Ordinance per Section 11.

- B. The Clerk shall give written notice to the permit holder of the Township Board's intent to revoke the Danby Township Recreational Marihuana Establishment Permit. The notice shall state the reasons for the proposed revocation. The notice shall state that the permit holder may attend a hearing before the Township Board as to the revocation to appeal the decision. 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 permit holder may submit written comments with respect to the proposed revocation.
- C. Following the hearing, the Township Board may, by written decision, revoke the permit, elect not to revoke the permit, or impose additional terms and conditions in the permit to gain compliance as to the matters for which revocation was considered.
- D. The revocation of a Danby Township Recreational Marihuana Establishment Permit shall not entitle the permit holder to any refund of fees paid under the terms of this ordinance.

Section 13: Severability.

The provisions of this ordinance are hereby declared to be severable, and if any clause, sentence, word, section, or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.

Section 14: Repeal.

All ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed, specifically the Danby Township Recreational Marihuana Establishment Permitting Ordinance. However, legal proceedings presently pending on an ordinance which is hereby repealed may proceed to judgment or decision and shall not be affected by this ordinance. This ordinance is not to be interpreted so as to vary the terms of or to create an inconsistency with the Danby Township Zoning Ordinance.

Section 15: Effective Date.

This ordinance shall be effective 30 days after the publication of a summary of its provisions in a local newspaper of general circulation in the Township.

ADOPTED:

Yeas: 5
Nays: 0
Absent: 0

STATE OF MICHIGAN)
)
COUNTY OF IONIA)

I, the undersigned, the duly elected Clerk of Danby Township, Ionia County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete representation of certain

proceedings conducted by the Board of Trustees of said Township at a meeting held on this 23rd day of March 2023.

Kristina Platte
Danby Township Clerk

**Note the original is signed*

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