

DANBY TOWNSHIP

ORDINANCE NO. 2023-2

Adopted 3-23-2023

Effective Date 5-2-2023

**AN ORDINANCE TO REQUIRE AN ANNUAL PERMIT FOR
MEDICAL MARIHUANA FACILITIES 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 Medical Marihuana Facility Licensing Ordinance” and may be referred to as the “ordinance” herein.

Section 2: Purpose. It is the intent of this ordinance to authorize medical marihuana facilities 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 Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101, et seq (“MMFLA”).
- 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 Medical Marihuana Facility Permit.
- B. Co-Location- The operation of separate facilities under the MMLFA or establishments under the MRTMA on the same lot or parcel.
- C. Marihuana- That term as defined in Section 7106 of the Michigan Public Health Code.
- D. Medical Marihuana Facilities Licensing Act (“MMFLA”)- The Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101, et seq.
- E. Medical Marihuana Facility- A facility permitted to operate under the MMFLA.
- F. Medical Marihuana Grower- A medical marihuana facility that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.

- G. Medical Marihuana Processor- A medical marihuana facility that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center or another processor.
- H. Medical Marihuana Provisioning Center- A medical marihuana facility that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. This use includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the State of Michigan marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this ordinance.
- I. Medical Marihuana Safety Compliance Facility- A medical marihuana facility that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- J. Medical Marihuana Secure Transporter - A medical marihuana facility that stores marihuana and transports marihuana between marihuana facilities for a fee.
- K. Person- An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, or other legal entity.
- L. 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”).
- M. 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”).
- N. State License- A license issued by the State of Michigan for facilities under the Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101, et seq.
- O. State Rules- Rules promulgated under the administrative procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement the Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101, et seq.
- P. Township- Danby Township.
- Q. Township Medical Marihuana Facility Permit- An annual permit issued by the Danby Township Board that authorizes the operation of a medical marihuana facility.

Section 4: Authorized Medical Marihuana Facilities and Applicability.

- A. The following medical marihuana facilities, as authorized by the MMFLA, may be operated by a Danby Township Medical Marihuana Facility Permit holder in the Township, subject to the numerical limitations in Section 4(B):
 - 1. Medical marihuana grower, Class C.
 - 2. Medical marihuana processor.
 - 3. Medical marihuana provisioning center.
 - 4. Medical marihuana safety compliance facility.
 - 5. Medical marihuana secure transporter.
- B. Number.
 - 1. The number of Danby Township Medical Marihuana Facility Permits in effect at any time shall not exceed the following maximums within the Township:
 - a. Medical marihuana grower, Class C (2,000 plants): 3 licenses.
 - b. Medical marihuana processor: 3 licenses (must be on same parcel as a grower).
 - c. Medical marihuana provisioning center: 1 license.
 - d. Medical marihuana safety compliance facility: 1 license.
 - e. Medical marihuana secure transporter: 1 license.
 - 2. The Township Board may review and amend permit limits by amending this ordinance at any time.

Section 5: General Requirements.

- A. Medical marihuana facilities 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. Medical marihuana facilities shall only be operated by a person who has been issued a state operating license in accordance with the MMFLA and a Danby Township Medical Marihuana Facility Permit. The medical marihuana facility shall be operated only so long as the state operating license and Danby Township Medical Marihuana Facility 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 the 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 recreational marihuana establishment 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 medical marihuana facility shall operate only on the property and at the address specified on the Danby Township Medical Marihuana Facility Permit and the state operating license.
- G. The Danby Township Zoning Ordinance shall specify the zoning districts in which a medical marihuana facility may be located and operated. A Danby Township Medical Marihuana Facility Permit shall not be issued to a medical marihuana facility located or operated in any zoning district which does not expressly authorize the use through the special land use process. A medical marihuana facility 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 medical marihuana facility 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 Medical Marihuana Facility 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 lottery selection process under Section 8(D).
- C. The Danby Township Medical Marihuana Facility Permit and state permit must be displayed indoors in plain view clearly visible to Township officials.
- D. By accepting a Danby Township Medical Marihuana Facility Permit, the applicant shall consent to inspections of the applicant's medical marihuana facility 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 Medical Marihuana Facility 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 medical marihuana facility is proposed to be located.

3. The name and address of the owner of record of the property on which the medical marihuana facility 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 medical marihuana facility on the parcel shall be provided.
4. The type of medical marihuana facility 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.

Section 8: Review Process.

- A. The application for a Danby Township Medical 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 Medical Marihuana Facility Permit only in the order received, and only if a permit for the requested type of medical marihuana facility is then available.
- D. If the Township Board receives more complete applications than available permits for a specific type of medical marihuana facility by the deadline required by this section, the Township Board shall select at random the order in which applications are considered at the upcoming meeting. All applications for a limited number of permits will be entered in a lottery to determine the order in which applications will be reviewed. The name of each applicant will be drawn individually in sequence, with each applicant being assigned a number corresponding to the order in which their name was drawn. The lottery will continue until the names of all applicants are drawn and assigned a number. The location of the medical marihuana facility proposed by the applicant whose name is drawn first in the lottery shall then be reviewed first by the Township Board. All lottery drawings shall be conducted publicly by the Township Clerk or designee, with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing.

- E. The Township Board shall approve an Initial Danby Township Medical Marihuana Facility 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 medical marihuana facilities permitted by this ordinance.
 3. The applicant has demonstrated that the medical marihuana facility will not impact public health, safety, and welfare.
 4. In case of renewal, there have been no material violations of the Township Medical Marihuana Facility Permit, this ordinance, and the special land use and site plan approval. A renewal applicant is not subject to the lottery 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 Medical Marihuana Facility 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 medical marihuana facility. 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 Medical Marihuana Facility Permit shall not be effective until the applicant provides the Clerk with evidence that a state operating license for the medical marihuana facility 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 Medical Marihuana Facility Permit shall be cancelled. If an initial Danby Township Medical Marihuana Facility 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 Medical Marihuana Facility 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 Medical 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 lottery selection process under Section 8(D).
- C. The Danby Township Medical Marihuana Facility 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. 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 lottery selection process.

Section 10: Fees.

A fee for a Danby Township Medical Marihuana Facility Permit shall be paid by the applicant for each permit and permit renewal at 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 medical marihuana facilities 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 Medical Marihuana Facility 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 Township Medical Marihuana Facility 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 Medical Marihuana Facility 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 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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