

**INDIANFIELDS TOWNSHIP
TUSCOLA COUNTY, MICHIGAN**

**ORDINANCE REGULATING MEDICAL MARIHUANA, RECREATIONAL
MARIHUANA, AND PRIMARY CAREGIVERS**

ORDINANCE NO. 57

At a meeting of the Township Board of the Indianfields Township, Tuscola County, Michigan, (“Township”) held on February 14, 2022 at 6:30 p.m., Township Board Member Kristine King moved to adopt the following ordinance. The motion was seconded by Township Board Member William Campbell:

An ordinance to regulate marihuana activities under the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421 et seq.; to require a permit for registered primary caregivers assisting other qualifying patients; to regulate nuisances and other impacts by marihuana activities within the Township as nuisances per se; to promote the general health, safety, and welfare of the community; and to repeal any ordinance or parts of ordinances or resolutions in conflict with this ordinance.

INDIANFIELDS TOWNSHIP, TUSCOLA COUNTY, MICHIGAN, ORDAINS:

SECTION 1: TITLE. This ordinance shall be known as and may be cited as the Indianfields Township Ordinance Regulating Medical Marihuana, Recreational Marihuana, and Primary Caregivers.

SECTION 2: DEFINITIONS.

1. Words used within this ordinance shall be construed to have the same meaning as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421 *et seq.* (hereinafter “MMMA”), the Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101 *et seq.* (“MMFLA”), and the Michigan Regulation and Taxation of Marihuana Act, Michigan Initiated Law 1 of 2018, MCL 333.27951 *et seq.* (“MRTMA”), except where otherwise specifically provided.
2. “Primary Caregiver Operation” means the cultivation, storage and/or transfer of marihuana by a medical marihuana primary caregiver in accordance with the MMMA and Township ordinances.
3. “Premises” shall mean an individual legally described and delineated parcel.
4. “Reasonably Available Odor Control Technology” (“RAOCT”) means an odor control technology that limits odor from a particular source or source category within the limits of Township ordinances by the application of control technology that is reasonably available considering technological and economic feasibility. RAOCT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source

upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls.

SECTION 3: PROHIBITION OF UNLAWFUL MARIHUANA ACTIVITIES. The acquisition, possession, cultivation, use, delivery, distribution, processing, or transfer of marihuana to treat or alleviate a debilitating medical conditions prohibited except in compliance with the MMMA and local ordinances. This ordinance does not prohibit the acquisition, possession, cultivation, use, delivery, or transfer of marihuana by individuals over the age of twenty-one (21)pursuant to the MRTMA. This ordinance shall not be construed to permit marihuana establishments or facilities to operate within the Township.

SECTION 4: PRIMARY CAREGIVER ASSISTING OTHER QUALIFYING PATIENTS; PERMIT REQUIRED; EXCEPTION. To ensure the health, safety, and welfare of the community, ensure compliance with the MMMA, and ensure compliance with this ordinance, a Primary Caregiver Operations required to acquire a permit from the Township by submitting an application with the required information below with any required application fee.

1. An applicant that desires to operate a Primary Caregiver Operation must obtain a permit from the Township by submitting a written application containing all of the information below. The Township Clerk or their designee may create an application form for such permits, and if created, an applicant must submit their permit application using that form. The Township Board may establish by resolution a required application fee under the ordinance.
2. The permit application shall include:
 - a. The applicant's name, address, phone number, and e-mail address;
 - b. The address of the premises where marihuana will be acquired, possessed, cultivated, processed, used, or transferred;
 - i. If the applicant does not own the premises where marihuana will be acquired, possessed, cultivated, processed, used, or transferred, he or she must provide written documentation outlining that such activities are permitted on the premises or indicating some ownership interest (e.g., a lease).
 - c. A copy of the current state registration card issued to the primary caregiver;
 - d. A full description of the nature and types of equipment which will be used in marihuana cultivation and processing;
 - e. A narrative describing the security measures the primary caregiver will use to ensure that no one unlawfully accesses marihuana and outlining whether the primary caregiver will reside on the premises hosting the Primary Caregiver Operation;

- f. A description of the location at which the marihuana cultivation, processing, use, and or transfer will take place;
 - g. A sketch plan of the premises identifying the key areas where marihuana cultivation, processing, use, or transfer will take place, including the location of any chemicals used in the processing and the storage of waste products while being maintained on the premises;
 - h. A plan for the disposal of marihuana and related byproducts that will be used;
 - i. Information related to the amps rating of the electric power service to be used to support the Primary Caregiver Operation, if known;
 - j. A narrative explaining how the Primary Caregiver Operation will meet all standards outlined in Section 5 and 6 of this ordinance; and
 - k. The number of marihuana plants that will be cultivated and processed.
3. The Township Board, or its designated representative, shall review a complete application, with supporting materials, and shall approve, approve with conditions, or deny a permit based upon compliance with this ordinance. The basis for a denial shall be stated in writing.
 4. Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the Township, shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.
 5. A permit for a Primary Caregiver Operation shall remain valid for five (5) years following its approval.

SECTION 5: PRIMARY CAREGIVER OPERATIONS REGULATIONS. All Primary Caregiver Operations are subject to the following specific regulations to ensure compliance with state and local laws and to promote the health, safety, and general welfare of Township residents and visitors.

1. The minimum lot size for a Primary Caregiver Operation is five(5) acres. The Township may waive the minimum lot size requirement if an applicant for a Primary Caregiver Operation can provide written documentation in an application for a permit under this ordinance showing that a proposed Primary Caregiver Operation: (1) is able to effectively meet the requirements of this ordinance; and (2) will not impose nuisances on neighboring properties despite being on a lot that is less than five (5) acres.
2. There shall be no more than one Primary Caregiver Operation per premises.

3. All lighting shall be subject to the following general operating standards:
 - a. All lighting shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect adjacent properties or driver visibility on adjacent public roads.
 - b. All lighting shall be shielded to the extent possible to reduce glare and visibility.
 - c. Grow lights shall not be used before 6:00 a.m. local time and shall not be used after 9:00 p.m. local time where they are visible from any adjacent properties or rights-of-way.
4. The operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air scrubbing and carbon filtration system so that no odor is detectable at the property line of the premises, unless the Township Board or its designated representative approves a Reasonably Available Odor Control Technology for a specific premises.
5. No signs or advertisements related to a Primary Caregiver Operation shall be permitted on the exterior of any structure on the premises.
6. To ensure compliance with all applicable requirements and laws, the portion of any building or structure where a primary caregiver assisting other patients acquires, possesses, cultivates, processes, transfers, or uses marijuana is subject to inspection and approval by a Township representative, including, but not limited to: (1) a code enforcement officer; (2) a law enforcement official serving the Township; or (3) a building official. Moreover, any premises and all enclosed, locked facilities on a premises with a Primary Caregiver Operation shall be available for inspection upon reasonable request by a building official, code enforcement officer, law enforcement official, or the Township Supervisor.
7. Marijuana cultivation, processing, use, and transfer shall be maintained in compliance with the requirements of Township ordinances, materials submitted with a permit application, and the MMMA. Any departure shall be grounds to revoke a permit at a hearing in front of the Township Board and for the Township to take other lawful actions to abate such nuisance. If a permit is revoked, an applicant shall not engage in a Primary Caregiver Operation unless and until a new permit is granted.

SECTION 6: GENERALLY APPLICABLE MARIHUANA REGULATIONS. The regulations below shall apply to any individual or entity within the Township that uses, possesses, grows, transports, or conducts activities with marijuana, including Primary Caregiver Operations, in order to ensure compliance with state and local laws and to promote the health, safety, and general welfare of Township residents and visitors.

1. Marijuana grown on any premises for personal use must comply with the applicable provisions of the MMMA or MRTMA unless authorized as a licensed Primary Caregiver Operation or operating consistent with state and local law.

2. The acquisition, possession, cultivation, use, delivery, distribution, processing, sale, or transfer of marihuana within the Township shall not create a public nuisance which unreasonably disturbs or annoys the quiet, comfort, or repose of a reasonable person of normal sensitivities in the vicinity. No person shall commit, create, or maintain such public nuisance including by reason of noise, vibration, traffic, parking, glare, fumes, odor, unsanitary or unsightly conditions, fire hazard, light pollution, toxic chemicals, or other public nuisance conditions that would offend a reasonable person of normal sensitivities.
3. Any person or entity with marihuana on a premises shall control any odor from their premises by regularly maintaining and operating an air scrubbing and carbon filtration system so that no odor from the acquisition, possession, cultivation, processing, transfer, sale, or use of marihuana is detectable at the property line of the premises, unless the Township Board or its designated representative, approves of Reasonably Available Odor Control Technology for a specific premises or if lawful activities associated with marihuana activities on a premises do not cause detectable odors at property lines.
4. All lighting associated with marihuana activities shall be directed away from and be shielded from adjacent properties without alteration a building (e.g., boarded up windows) and shall be so arranged as to not adversely affect adjacent properties or driver visibility on adjacent public roads.
5. Any storage of chemicals used for marihuana such as herbicides, pesticides, and fertilizers shall be stored in a reasonably safe and prudent manner.
6. Any person or entity shall use lawful methods to dispose of waste or by-products from any lawful marihuana activities allowed within the Township according to all applicable local, state, and federal laws and regulations.
7. All marihuana activities conducted by a person or entity must comply with applicable Michigan or local laws.

SECTION 7: VIOLATIONS AND PENALTIES.

1. Any person who disobeys, neglects, or refuses to comply with any provision of this ordinance, or who causes, allows, or consents to any of the same shall be deemed to be responsible for a violation of this ordinance. A violation of this ordinance is deemed a nuisance per se.
2. Violations of this ordinance are municipal civil infractions, punishable by a fine of \$500.00, along with any costs, direct or indirect expenses, or attorney fees that the Township incurs in connection with the infraction. The Township, in prosecuting the infraction, may request the Court issue a writ or order compelling compliance with the ordinance pursuant to MCL 600.8727 and MCL 600.8302, together with all other remedies pursuant to MCL 600.8701, *et seq.*

3. The Township may seek injunctive relief against persons alleged to be in violation of this ordinance and any other relief available at law or equity.
4. Each day during which any violation continues shall be deemed a separate offense.
5. This ordinance shall be administered and enforced by the Tuscola County Sheriff's Department or other official or representative authorized by the Township, or by such other person(s) as designated by the Township Supervisor from time to time. The ordinance enforcement duties herein authorized shall include:
 - a. Investigation of ordinance violations;
 - b. Issuing and serving Municipal Civil Infraction Citations as authorized under the Revised Judicature Act, Public Act 12 of 1994, MCL 600.8396, as amended;
 - c. Appearance in court or other judicial proceedings to assist in the prosecution of ordinance violators; and
 - d. Such other ordinance enforcing duties as may be delegated by the Township Supervisor or assigned by the Township Attorney.

SECTION 8: SEVERABILITY. The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section, or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of this ordinance which shall continue in full force and effect.

SECTION 9: REPEAL. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. Except to the extent that there is a conflict, this ordinance does not repeal or amend Township ordinances or resolutions prohibiting marijuana facilities or establishments under the MMFLA or MRTMA.

SECTION 10: EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after notice of its adoption is published in a local newspaper.

SECTION 11: SAVINGS CLAUSE. Except as expressly amended or repealed by this ordinance, the balance of the Indianfields Township ordinances, as amended, shall remain unchanged and in full force and effect.

YEAS: K. King, Woloshen, E. King, Campbell

Nays: None

ORDINANCE DECLARED ADOPTED.

William Campbell, Indianfields Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of the said ordinance, adopted by the Indianfields Township Board, at a duly scheduled and noticed meeting, of that Township Board held on February 14, 2022, pursuant to the required statutory procedures.
2. A summary of this ordinance was duly published in the Advertiser, a newspaper that circulates within Indianfields Township, on February 23, 2022.
3. Within 1 week after such publication, I recorded this ordinance in a book of ordinances kept by the Township, for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of this ordinance with the Tuscola County Clerk on February 24, 2022.

William E. Campbell
Indianfields Township Supervisor

NOTICE OF ADOPTION

**ORDINANCE REGULATING MEDICAL MARIHUANA, RECREATIONAL
MARIHUANA, AND PRIMARY CAREGIVERS**

INDIANFIELDS TOWNSHIP, TUSCOLA COUNTY

The Indianfields Township Board adopted a police power ordinance titled “Indianfields Township Ordinance Regulating Medical Marihuana, Recreational Marihuana, and Primary Caregivers” at a meeting held on February 14, 2022. This new ordinance, among other things, regulates marihuana activities in the Township consistent with state law and requires those who operate Primary Caregiver Operations to obtain a permit.

The ordinance contains the following sections and catch-lines: (1) Section 1: Title; (2) Section 2: Definitions; (3) Section 3: Prohibition of Unlawful Marihuana Activities; (4) Section 4: Primary Caregiver Assisting Other Qualifying Patients; Permit Required; Exception; (5) Section 5: Primary Caregiver Operations Regulations; (6) Section 6: Generally Applicable Marihuana Regulations; (7) Section 7: Violations and Penalties; (8) Section 8: Severability; (9) Section 9: Repeal; (10) Section 10: Effective Date, which is thirty (30) days after notice of its adoption is published in a local newspaper; and (11) Section 11: Savings Clause. A copy of the ordinance may be obtained or inspected by appointment at Township Hall located at the corner of Roosevelt and Warner Roads, Carson City, MI 48811.

Published by Order of the Township Board
Indianfields Township, Tuscola County, MI
_____, Township Supervisor
(989) 673-3416

Publication Date: February 23, 2022