

ORDINANCE NO. \_\_\_\_\_ 18-12-01 \_\_\_\_\_

**TOWNSHIP OF OCEOLA REGULATORY ORDINANCE  
PROHIBITION OF MARIHUANA ESTABLISHMENTS**

The Township of Oceola ordains an Ordinance to prohibit marihuana establishments pursuant to the Michigan Regulation and Taxation of Marihuana Act:

**Section 1. Title.** This Ordinance shall be known as the “Township of Oceola Prohibition of Marihuana Establishments Ordinance”.

**Section 2. Definitions.** The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them by the Legislative Acts referenced herein this section, except where the context clearly indicates a different meaning:

- (A) *IHRA* means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*
- (B) *Marihuana establishment* means the term as defined in the MRTMA.
- (C) *Marihuana facility* means that term as defined in the MMFLA.
- (D) *MMFLA* means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.
- (E) *MMMA* means the Michigan Medical Marihuana Act, 2008 IL 1, as amended.
- (F) *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

**Section 3. Prohibition of Marihuana Establishments.**

- (A) It is acknowledged that Public Act 281 of 2016 (MCL 333.2701 *et seq.* ), as may be amended, authorizes the State of Michigan to license different types of facilities related to medical marihuana; Section 205 PA 281 of 2016 (MCL 333.27205), provides that a “marihuana facility shall not operate in a municipality unless the municipality has adopted an ordinance that authorizes that type of facility”; Section 205 PA 281 of 2016, further provides that a “municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction”; and Section 205 PA of 281 of 2016 requires a municipality to respond to the State of Michigan, Medical Marihuana Licensing Board within 90 days after the municipality receives notification from the applicant that a license for one of the types of medical marihuana facilities authorized by PA 281 of 2016 has been applied for.

- (B) It is further acknowledged that the Michigan Regulation and Taxation of Marihuana Act of 2018, as may be amended, authorizes the State of Michigan to license different types of marihuana establishments and Section 6.1, authorizes a municipality to “completely prohibit or limit the number of marihuana establishments within its boundaries”, as defined in the Michigan Regulation and Taxation of Marihuana Act of 2018, as may be amended.
- (C) The Township Board of the Township of Oceola, Livingston County, Michigan, is cognizant of its authority to adopt an ordinance or ordinances to authorize the operation of one or more of the types of medical marihuana facilities authorized by PA 281 of 2016, but desires not to do so. Pursuant to the Michigan Medical Marihuana Facilities Licensing Act, Section 205(1), being MCL 333.27205(1), as may be amended, the Township elects to prohibit medical marihuana facilities within its boundaries, including, but not limited to, any medical marihuana grower, medical marihuana processor, medical marihuana provisioning center, medical marihuana transporter, medical marihuana safety compliance facility, or any other type of medical marihuana-related business licensed by the State of Michigan under the Michigan Medical Marihuana Facilities Licensing Act. As a result of the Township’s declination to adopt an ordinance authorizing any types of medical marihuana facilities authorized by PA 281 of 2016, as may be amended, a marihuana facility shall not operate in the Township.
- (D) Pursuant to the Michigan Regulation and Taxation of Marihuana Act, Section 6.1, the Township of Oceola elects to prohibit marihuana establishments within its boundaries, including, but not limited, any marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana dispensary, 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, or as may be amended. As a result of the Township’s adoption of an Ordinance prohibiting any of the types of marihuana establishments authorized by the Michigan Regulation and Taxation of Marihuana Act of 2018, as may be amended, a marihuana establishment shall not operate in the Township.

#### **Section 4. Violations and Penalties**

- (A) 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 the violation of this Ordinance and each day the violation exists shall constitute a separate offense.
- (B) A violation of this Ordinance is deemed to be a nuisance per se, permitting the Township Board, its officers, agents or any private citizen to take such action in any Court of competent jurisdiction to cause the abatement of such nuisance, including injunctive relief.

(C) In addition to the foregoing, any violation of this Ordinance is a municipal infraction. If responsible for a civil infraction, penalties may be imposed in fines up to \$100.00 (One Hundred Dollars) per day from the first violation date, plus the costs of prosecution. The Township may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this Ordinance. The recovery of charges imposed under this Ordinance does not limit liability of responsible parties under local Ordinance or State or Federal law, rule or regulation. The decision to charge the alleged violator with a civil infraction as a result of a violation of this Ordinance shall be at the sole discretion of the Township Board.

### **Section 5. Enforcement**

- (A) The Township Board is hereby charged with the enforcement of this Ordinance upon a complaint being filed in writing with the Township Supervisor or the Supervisor's designee, or upon the Motion of the Township Board.
- (B) When any enforcement of this Ordinance shall occur, the Supervisor shall cause written notice of same to be served upon the owner and occupant of the premises where the violation has occurred.
- (C) If correction has not been completed within the time specified in the notice, then the Township Board may cause the violation to be corrected without further notice.
- (D) In the event that a violation exists pursuant to Section 4 above, the Supervisor shall set a date for hearing before the Township Board at which hearing a determination shall be made by the Board whether the premises in question fall within the provisions of this Ordinance and whether enforcement action shall be taken. Notice of hearing shall be sent to the owner and or occupant of the premises by certified mail not less than ten (10) days prior to the hearing and shall set forth the following:
- (1) A notice of time and place of hearing;
  - (2) A definite factual statement of the violation charged;
  - (3) Notice of the right to cross-examine witnesses and the right to produce witnesses in the owner's behalf; and
  - (4) The nature of the enforcement action which may be taken by the Township if the violation is not corrected.
- (E) In the event that a violation under Section 4 has been determined by the Board to exist and the owner fails to demonstrate his capacity to restore or remove the same within the time limits prescribed by the Board, then the Board may proceed to take enforcement actions.

**Section 6. Savings Clause.** This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, hereby repealed, and this Ordinance shall in no manner affect any rights, claims, privileges, immunities or causes of action of the Township, County or other person, either criminal or civil,

that may have already occurred, accrued or grown out of any ordinance, resolution, order or policy, or any part thereof, hereby repealed. This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, hereby repealed.

**Section 7. Validity and Severability.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of the Ordinance.

**Section 8. Effective Date.** This Ordinance shall be effective from and after the date of its publication.

  
William J. Bamber, Oceola Township Supervisor

  
Jaime Clay, Oceola Township Clerk

Oceola Township Board Member Lance Schuhmacher offered the foregoing Ordinance and moved for its adoption. The motion was seconded by Oceola Township Board Member Kieth Huff, and upon being put to a vote, the vote was as follows:

William Bamber, Oceola Township Supervisor Yes

Jaime Clay, Oceola Township Clerk Yes

LuAnn Pless, Oceola Township Treasurer Yes

Sean Dunleavy, Oceola Township Trustee Absent

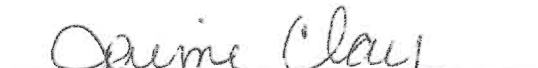
Robert Henshaw, Oceola Township Trustee Yes

Kieth Huff, Oceola Township Trustee Yes

Lance Schuhmacher, Oceola Township Trustee Yes

The Supervisor thereupon declared this Ordinance approved and adopted by the Oceola Township Board this 6<sup>th</sup> day of December, 2018.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 18-12-01 adopted by the Oceola Township Board, County of Livingston, Michigan, at a regular meeting held on December 6, 2018.

  
Jaime Clay, Oceola Township Clerk