



*Michigan State University Extension*  
*Land Use Series*

# **Municipal Ordinance Authority under Michigan's Medical Marihuana Facilities Licensing Act**

*Original version: August 3, 2017*

*Last revised: October 4, 2017*

This document summarizes, for each potential zoning scenario, the municipal ordinance framework applicable to authorizing and regulating medical marihuana facilities under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (MMFLA). A medical marihuana facility may only operate in a municipality (city, township, or village) that adopts an ordinance to authorize that type of facility.<sup>1</sup> A municipality may further adopt other ordinances relating to medical marihuana facilities within its jurisdiction, including zoning regulations, as limited by the MMFLA.<sup>2</sup>

The illustration on page two is a tabular presentation of the material that is presented in question and answer format through the rest of the document.

---

*“Thirty seven million acres is  
all the Michigan we will ever have.”*  
William G. Milliken

---

<sup>1</sup> See MCL 333.27205(1), which also provides that the municipality may limit the number of each type of facility.

<sup>2</sup> A municipality “shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities.” MCL 333.27205(1).

	Can adopt police power ordinance authorizing marihuana facility type(s)	Can adopt zoning regulations including districts and standards that apply to marihuana facility types
<b>Township WITH own zoning ordinance</b>	Yes.	Yes.
<b>Township WITHOUT own zoning ordinance but in a county WITH a zoning ordinance</b>	Yes. The township can adopt an ordinance authorizing marihuana facilities, but the county cannot.	No for the township; yes for the county. The county could amend its zoning ordinance to include marihuana facilities as a special land use with one of the standards for approval being location in a township that has adopted an ordinance authorizing such facilities.  If the county does not amend its zoning ordinance, the township cannot otherwise regulate the use of land for marihuana facilities by adopting ordinances involving matters subject to county zoning. Or, a township could first prepare and adopt a master plan, then an entire zoning ordinance, which typically takes about two years. Upon adoption of township zoning, then the township would no longer be subject to county zoning.
<b>Township WITHOUT own zoning ordinance and in a county WITHOUT a zoning ordinance</b>	Yes.	No. The township cannot regulate marihuana facilities by use of districts and may be limited in otherwise regulating marihuana facilities except some aspects under a police power ordinance, e.g., noise, other nuisance provisions, etc. (Or the township may adopt a master plan and zoning as described above.)
<b>City or village WITH zoning</b>	Yes.	Yes.
<b>City or village WITHOUT zoning</b>	Yes.	No. These cities and villages cannot regulate marihuana facilities by use of districts but may be able to regulate marihuana facilities in a police power ordinance under home rule. (Or they may adopt a master plan and zoning ordinance as described above.)
<b>Township, city or village with joint zoning</b>	Yes. The municipality can adopt an ordinance authorizing marihuana facilities, but the joint planning commission cannot.	No for the municipality; yes for the joint planning commission. The municipality would need to work with the joint planning commission to amend the joint zoning ordinance to include marihuana facilities as a special land use with one of the standards for approval being location in a municipality that has adopted an ordinance authorizing such facilities.

This is a fact sheet developed by experts on its subject matter within MSU Extension. Its intended purpose is to assist Michigan communities making public policy decisions on these issues. This work refers to university-based, peer-reviewed research when available and conclusive. This is not original research or a study proposing new findings or conclusions. This document is based on Michigan law and was written for use only in Michigan. The concepts and rules for an ordinance, zoning, or other regulation by Michigan municipalities and counties may not apply in other states. This educational document is not legal advice nor is it a substitute for legal advice.

## **Township, city or village WITH own zoning ordinance<sup>3</sup>**

Can adopt police power ordinance authorizing marihuana facility type(s)?<sup>4</sup>

Yes.

Can adopt zoning regulations including districts and standards that apply to marihuana facility types?<sup>5</sup>

Yes.

## **Township WITHOUT own zoning ordinance but in a county WITH a zoning ordinance<sup>6</sup>**

Can adopt police power ordinance authorizing marihuana facility type(s)?

Yes. The township can adopt an ordinance authorizing marihuana facilities, but the county cannot.<sup>7</sup>

Can adopt zoning regulations including districts and standards that apply to marihuana facility types?

No for the township; yes for the county. The county could amend its zoning ordinance to include marihuana facilities as a special land use with one of the standards for approval being location in a township that has adopted an ordinance authorizing such facilities.

If the county does not amend its zoning ordinance, the township cannot otherwise regulate the use of land for marihuana facilities by adopting ordinances involving matters subject to county zoning.<sup>8</sup> Or, a

---

<sup>3</sup> A township that has enacted a zoning ordinance is not subject to a county zoning ordinance. MCL 125.3209.

<sup>4</sup> The broad authority to adopt police power ordinances was granted to Michigan's local legislative bodies by statute: general law townships, MCL 41.181; charter townships, MCL 42.15; home rule cities, MCL 117.3(k), (see also MCL 117.4i); fourth-class cities, MCL 91.1, (see also MCL 88.12); home rule villages, MCL 78.23(k), (see also MCL 78.24); and general law villages, MCL 67.1, (see also MCL 67.1a). However, no statute specifically gives counties a general grant of authority to enact police power ordinances.

<sup>5</sup> The Michigan Zoning Enabling Act (MZEA), MCL 125.3101 et seq., is the consolidated statute authorizing adoption of zoning by counties, townships, cities and villages.

<sup>6</sup> A county's zoning jurisdiction includes the areas not subject to a township zoning ordinance. MCL 125.3102(w).

<sup>7</sup> The authority under the MMFLA to adopt an ordinance that authorizes medical marihuana facilities is granted to a municipality, which the MMFLA defines as a city, township, or village. MCL 333.27102(m), MCL 333.27205(1).

<sup>8</sup> In a township subject to county zoning, the county's zoning ordinance adopted under the MZEA preempts township police power ordinances that qualify as zoning regulations in substance. See *Forest Hill Energy-Fowler Farms, LLC. v Bengal Twp*, unpublished opinion per curiam of the Court of Appeals, issued Dec. 4, 2014 (Docket No 319134), p. 7.

township could first prepare and adopt a master plan, then an entire zoning ordinance, which typically takes about two years.<sup>9</sup> Upon adoption of township zoning, then the township would no longer be subject to county zoning.

## **Township, city or village WITH joint zoning**

Can adopt police power ordinance authorizing marihuana facility type(s)?

Yes. Each participating municipality can adopt an ordinance authorizing marihuana facilities, but the joint planning commission cannot.<sup>10</sup>

Can adopt zoning regulations including districts and standards that apply to marihuana facility types?

No for the municipality; yes for the joint planning commission. The municipality would need to work with the joint planning commission to amend the joint zoning ordinance to include marihuana facilities as a special land use with one of the standards for approval being location in a municipality that has adopted an ordinance authorizing such facilities.<sup>11</sup>

## **Township WITHOUT own zoning ordinance and in a county WITHOUT a zoning ordinance**

Can adopt police power ordinance authorizing marihuana facility type(s)?

Yes.

Can adopt zoning regulations including districts and standards that apply to marihuana facility types?

No. The township cannot regulate marihuana facilities by use of districts and may be limited in otherwise regulating marihuana facilities except some aspects under a police power ordinance, e.g., noise, other nuisance provisions, etc.<sup>12</sup> (Or the township may adopt a master plan and zoning as described above.)

## **City or village WITHOUT zoning**

Can adopt police power ordinance authorizing marihuana facility type(s)?

Yes.

Can adopt zoning regulations including districts and standards that apply to marihuana facility types?

---

<sup>9</sup> Zoning would be dependent upon creation of a planning commission and adoption of a master plan under the Michigan Planning Enabling Act, MCL 125.3801 et seq., which applies to counties, townships, cities and villages.

<sup>10</sup> A joint planning commission does not have the authority to adopt an ordinance that authorizes medical marihuana facilities or adopt any general police power ordinance. See MCL 125.137, MCL 333.27102(m), and MCL 333.27205(1).

<sup>11</sup> The joint zoning ordinance is governed by the Michigan Zoning Enabling Act, MCL 125.3101 et seq., the Joint Municipal Planning Act, MCL 125.131 et seq., and the agreement establishing the joint planning commission.

<sup>12</sup> See also *Natural Aggregates Corp v Brighton Twp*, 213 Mich App 287, 539 NW2d 761 (1995).

No. These cities and villages cannot regulate marihuana facilities by use of districts but may be able to regulate marihuana facilities in a police power ordinance under home rule.<sup>13</sup> (Or they may adopt a master plan and zoning ordinance as described above.)

---

## Authors

This publication was developed by:

- Wendy K. Walker, Esq., Educator, Government and Public Policy

Reviewed by:

- Bradley Neumann, AICP, Senior Educator, Government and Public Policy
- Kurt H. Schindler, AICP, Distinguished Senior Educator Emeritus, Government and Public Policy
- Mark A. Wyckoff, FAICP, Interim Director, MSU Land Policy Institute

To find contact information for authors or other MSU Extension experts use this web page:

<http://msue.anr.msu.edu/experts>.

MSU is an affirmative-action, equal-opportunity employer, committed to achieving excellence through a diverse workforce and inclusive culture that encourages all people to reach their full potential. Michigan State University Extension programs and materials are open to all without regard to race, color, national origin, gender, gender identity, religion, age, height, weight, disability, political beliefs, sexual orientation, marital status, family status or veteran status. Issued in furtherance of MSU Extension work, acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture. Jeffrey W. Dwyer, Director, MSU Extension, East Lansing, MI 48824. This information is for educational purposes only. Reference to commercial products or trade names does not imply endorsement by MSU Extension or bias against those not mentioned. The name 4-H and the emblem consisting of a four-leaf clover with stem and the H on each leaflet are protected under Title 18 USC 707.

---

<sup>13</sup> Cities and villages are not subject to county zoning. MCL 125.3102(w).