

Banks Township
Ordinance Number _____ of 2012

An Ordinance to amend Article III and Article IV of the Banks Township Zoning Ordinance.

The Township of Banks Ordains:

Section 1. Amendment of Article III

Article III of the Banks Township Zoning Ordinance is hereby amended to add the following definitions to be inserted in their alphabetical locations, which new definitions shall read in their entirety as follows:

Enclosed, locked facility - That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423.

Marijuana or marihuana - That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106.

Medical Use - That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423.

Primary caregiver - That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423 who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marihuana Act.

Primary caregiver facility - A building in which the activities of a primary caregiver are conducted.

Qualifying patient - That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423 who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marihuana Act, and includes the parents or legal guardians of a qualifying patient under the age of 18 who are serving as the primary caregiver as required by the Michigan Medical Marihuana Act exclusively for that qualifying patient under the age of 18.

Section 2. Amendment of Article IV

Article IV of the Banks Township Zoning Ordinance is hereby amended to add a new Section 4.26, which new section shall read in its entirety as follows:

Section 4.26 Medical Marihuana

1. Intent and Purpose. With the enactment of the Michigan Medical Marihuana Act (hereinafter referred to as the "MMMA"), Initiated Law 1 of 2008, MCL 333.26423, *et seq*, and its administrative rules, R 333.101, *et seq*, the Banks Township Zoning Ordinance has not kept pace with this recent legislation. As a result, the purpose of this section is to implement land use regulations to address the medical use of marihuana in accordance with the MMMA.

2. Regulations for Qualifying Patients. The medical use of marihuana by a qualifying patient in that qualifying patient's dwelling or an accessory building is hereby recognized as an accessory use to the principal residential use of the property and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:
 - a. The qualifying patient must be issued and at all times must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
 - b. All marihuana plants or products must be contained within the dwelling or accessory building in an enclosed, locked facility that permits access only by the qualifying patient.
 - c. If a room with windows within the dwelling or accessory building is utilized to grow marihuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
3. Regulations for Primary Caregivers. The medical use of marihuana by a primary caregiver is hereby authorized as a use by right within a dwelling or an accessory building in any zoning district, provided that all of the following regulations are met:
 - a. The primary caregiver must be issued and at all times must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
 - b. The primary caregiver must obtain a zoning permit under Section 9.02 of this Ordinance.
 - c. Except when being transported as provided in subsection i below, all marihuana plants or products must be contained within the dwelling or accessory building in an enclosed, locked facility that segregates the Marihuana plants and products for medical use for each qualifying patient and permits access only by the primary caregiver.
 - d. If a room with windows within the dwelling or accessory building is utilized to grow marihuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
 - e. No more than one (1) primary caregiver per dwelling unit shall be permitted. The dwelling unit shall be the principal dwelling of the primary caregiver. The medical use of marihuana shall comply at all times with the MMMA and General Rules of the Bureau of Health Professionals, Michigan Department of Licensing and Regulatory Affairs or any successor agency, as they may be amended from time to time
 - f. Except for any qualifying patients who reside with the primary caregiver at the dwelling, no qualifying patients may be present at a dwelling or accessory building in which a primary caregiver of medical marihuana is providing primary caregiver services to qualifying patients for any purpose directly related to primary caregiver services. This subsection, however, shall not be construed to prohibit the presence of qualifying patients at a dwelling or accessory building in which a primary caregiver

of medical marihuana is providing primary caregiver services for purposes unrelated to primary caregiver services.

- g. No qualifying patients under the age of 18 (eighteen) shall be permitted at any time at a dwelling or accessory building in which a primary caregiver is providing primary caregiver services to qualifying patients, except in the presence of his/her parent or guardian, except when the qualifying patient resides with the primary caregiver at the dwelling, and except when the qualifying patient visits are for purposes unrelated to primary caregiver services.
- h. No marihuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the dwelling or accessory building in which a primary caregiver is providing primary caregiver services to qualifying patients, except to a qualifying patient who resides with the primary caregiver at the dwelling. Except as provided herein, the primary caregiver shall deliver all marihuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo. In addition, all marihuana for medical use delivered to a qualifying patient shall be packaged so the public cannot see or smell the marihuana.
- i. No marihuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a dwelling or accessory building in which a primary caregiver is providing primary caregiver services to qualifying patients, except by a qualifying patient who resides with the primary caregiver at the dwelling.
- j. A dwelling or an accessory building in which a primary caregiver is providing primary caregiver services to qualifying patients shall display indoors and in a manner legible and visible to his/her qualifying patients:
 - 1). A notice that qualifying patients under the age of eighteen (18) are not allowed at the dwelling or accessory building in which a primary caregiver is providing primary caregiver services to qualifying patients, except in the presence of his/her parent or guardian, except when the qualifying patient resides with the primary caregiver at the dwelling, and except when the qualifying patient visits are for purposes unrelated to primary caregiver services, and
 - 2). A notice that no dispensing or consumption of marihuana for medical use shall occur at the dwelling or accessory building in which a primary caregiver is providing primary caregiver services to qualifying patients, except to or by a qualifying patient who resides with the primary caregiver at the dwelling.
- k. A dwelling or an accessory building in which a primary caregiver is providing primary caregiver services to qualifying patients shall not have any signage visible from the outdoors that would indicate the nature of the primary caregiver services being conducted in the dwelling.
- l. A dwelling or an accessory building in which a primary caregiver is providing primary caregiver services to qualifying patients shall not be located within 1000 feet of the lot on which primary caregiver services is being provided to qualifying patients in any other dwelling or accessory building and shall not be located within 1000 feet of a lot on which any of the following uses are located:
 - 1) Any church or place of worship and its accessory structures.

- 2) Any public or private school and its accessory structures.
 - 3) Any preschool, child care or day care facility and its accessory structures.
 - 4) Any public facility, such as libraries, museums, parks, playgrounds, public beaches, community centers, and other public places where children may congregate.
4. Relationship to Federal Law. Nothing within this section is intended to grant, nor shall it be construed as granting, immunity from federal law.

Section 3. Severability.

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed each part, section, subsection, phrase, sentence, and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences, or clauses be declared invalid.

Section 4. Conflicts.

If any provision of the Banks Township Zoning Ordinance conflicts with this Zoning Ordinance Amendment, then the provisions of this Zoning Ordinance Amendment shall control.

Section 5. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

Township of Banks

By:
Thomas P. Mann, Supervisor

By:
Donna L. Heeres, Clerk

Adoption date: _____

Effective date: _____