

MTA Sample Medical Marihuana Facilities Resolution (To “Opt Out” and decline to authorize any type of medical marijuana facilities)

**TOWNSHIP OF _____
_____ COUNTY, MICHIGAN**

**RESOLUTION REGARDING MEDICAL MARIHUANA FACILITIES
AUTHORIZED BY PA 281 OF 2016**

RESOLUTION NO. _____

DATED: _____, 20__

WHEREAS, Public Act 281 of 2016 (MCL 333.27101 et. seq.) authorizes the State of Michigan to license five different types of facilities related to medical marihuana (grower, processor, secure transporter, provisioning center, and safety compliance facility); and

WHEREAS, Section 205 of 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”; and

WHEREAS, Section 205 of PA 281 of 2016 further provides that “[a] municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations...”; and

WHEREAS, Section 205 of PA 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 five types of medical marihuana facilities authorized by PA 281 of 2016 has been applied for; and

WHEREAS, the Township Board of _____ Township, _____ County, Michigan is cognizant of its authority to adopt an ordinance or ordinances to authorize the operation of one or more of the five types of medical marihuana facilities authorized by PA 281 of 2016 but desires to not do so.

NOW THEREFORE it is hereby resolved as follows:

1. _____ Township, _____ County, Michigan (Township) declines to adopt an ordinance authorizing any of the five types of medical marihuana facilities within the Township authorized by PA 281 of 2016; and
2. As a result of the Township’s declination to adopt an ordinance authorizing any of the five types of medical marihuana facilities authorized by PA 281 of 2016, a **“marihuana facility shall not operate in the Township”**; and
3. The Township Clerk and/or the Township Zoning Administrator is authorized to provide a copy of this resolution to the State of Michigan, Medical Marihuana Licensing Board in response to a request to locate a medical marijuana facility authorized by PA 281 of 2016 within the Township or for any other reason authorized by or in response to a request from State of Michigan, Department of Licensing and Regulatory Affairs or its successor agency or the Medical Marihuana Licensing Board; and
4. The Township Clerk and/or the Township Zoning Administrator is authorized to provide a copy of this Resolution to any applicant requesting the ability to locate a medical marihuana grower, processor, secure transporter, provisioning center or safety compliance facility in the Township as evidence that the same shall not be allowed in the Township; and
5. All resolutions in conflict herewith are repealed; and

6. This resolution is effective immediately upon adoption and shall remain in full force and effect until repealed by the Township Board.

This RESOLUTION was offered by Board member _____, supported by Board member _____ at a meeting on _____, 20__ . The members of the Township Board voted as follows:

The TOWNSHIP SUPERVISOR declared the RESOLUTION duly adopted.

(NAME), Township Clerk

CERTIFICATE

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted at a regular meeting of the _____ Township Board held on _____, 20__ ; that the meeting was conducted and public notice of the meeting was given pursuant to and in compliance with the Michigan Open Meetings Act; that a quorum of the Board was present and voted in favor of the resolution; and that the minutes of the meeting will be or have been made available as required by the Open Meetings Act.

_____, Clerk
Township of _____
_____ County, Michigan

Note: This is a sample resolution prepared by the Michigan Townships Association’s Legal Counsel in August 2017 for a township board to use if it wants to make a statement that it does not want to authorize any medical marijuana facilities (“opt out”). However, it is important to remember that a township is not required to adopt an ordinance or resolution or take any other action to prohibit the types of facilities authorized under the MMFLA. They are already prohibited by state and federal law and will continue to be illegal in a township unless the township board adopts an “opt in” ordinance to allow one or more type of facility allowed under the MMFLA.

Because many townships have been asked to take a definitive position declaring that they are not going to “opt in,” the MTA has provided a sample “opt out” resolution. Note that this is not required by the MMFLA, and a township that has not adopted an opt-in ordinance is not required to take any action to “opt out.” And even if a township “opts out,” it may still “opt in” at a later date. There is no deadline for a township to decide or to take any action.