

CHARTER TOWNSHIP OF MADISON

ORDINANCE NO. 41

Medical Marihuana Facilities Ordinance

An ordinance to authorize and regulate the establishment of medical marihuana facilities in the Charter Township of Madison and to provide for penalties for violations thereof.

THE CHARTER TOWNSHIP OF MADISON ORDAINS:

Section 1. Purpose

- 1.1. It is the intent of this ordinance to authorize the establishment of certain types of medical marihuana facilities in the Charter Township of Madison and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the Township through imposition of an annual, nonrefundable fee of \$5,000.00 on each medical marihuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- 1.2. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
- 1.3. As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

Section 2. Definitions

For the purposes of this ordinance:

- 2.1. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.

- 2.2. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- 2.3. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- 2.4. "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center. A grower can sell seeds or plants to another grower in addition to processors and provisioning centers. One grower may produce clones for others.
- 2.5. "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- 2.6. "Marihuana" or "marijuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.
- 2.7. "Marihuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- 2.8. "Medical marihuana facilities permit" or "permit". A permit issued by the Township pursuant to the provisions of this ordinance.
- 2.9. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- 2.10. "Processor" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
- 2.11. "Provisioning center" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in

accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this ordinance.

- 2.12. "Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- 2.13. "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
- 2.14. "Township" means the Charter Township of Madison

Section 3. Requirements and Procedure for Issuing Permit

- 3.1. No person shall operate a marihuana facility in Township without a valid marihuana facility permit issued by the Township pursuant to the provisions of this ordinance.
- 3.2. On and after the approval of all zoning regulations relating to medical marihuana facilities, the Township shall accept applications for authorization to operate a medical marihuana facility within the Township. Application shall be made on a Township form and must be submitted to the Township Clerk and/or other designee of the Township Board (hereinafter referred to as "Clerk"). The application shall contain any information required by the Act and the following information:
 - A. Name, address and telephone number of property owner of the land where the marihuana facility will conduct business
 - B. Name, address and telephone number of the licensee.
 - C. If the property owner and licensee are not the same person, a document signed by the property owner authorizing the licensee to operate on the property owner's land.
 - D. Any other information deemed by the Township to be required for the consideration of a permit.
- 3.3. An initial medical marihuana facility fee of five thousand dollars (\$5,000) shall be payable at the time of application for Township authorization.
- 3.4. Every applicant for a permit to operate a Grow Operation shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

- 3.5. Once the Clerk receives a complete application, including all required information, and documentation, and the initial annual medical marihuana facility fee, the application shall be time and date stamped by the Clerk and assigned a sequential application number by facility type based on the date and time of acceptance. Complete applications shall be considered for authorization in consecutive time and date stamped order.
- 3.6. Upon consideration, the applicant shall receive conditional authorization to operate such medical marihuana facility within the Township. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Clerk at any time and receive refund of the initial annual medical marihuana fee submitted.
- 3.7. A conditional authorization means only that the applicant has submitted a valid application for a marihuana facility permit. The applicant shall not locate or operate a marihuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the Township.
- 3.8. Within thirty days from conditional authorization from the Township the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied for prequalification from the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Clerk.
- 3.9. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk.
- 3.10. A conditionally authorized applicant shall receive full authorization from the Township to operate the medical marihuana facility within the Township upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the medical marihuana facility in the Township and the applicant has met all other requirements of this ordinance for operation including but not limited to any zoning approval for the location of the facility within the Township. Maintaining a valid marihuana facility license issued by the state is a condition for the issuance and maintenance of a marihuana facility permit under this ordinance and continued operation of any marihuana facility.
- 3.11. If a conditionally authorized applicant fails to obtain full authorization from the Township within one year from the date of conditional authorization, then then such conditional authorization shall be canceled by the Clerk. The Township Board shall have authority to extend the deadline to obtain full authorization for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Township Board finding good cause for the extension.
- 3.12. A marihuana facility permit issued under this ordinance is not transferable.

Section 4. Regulations for Marihuana Facilities

All marihuana facilities permitted under this ordinance shall be subject to the following regulations:

- 4.1. *State Licensing.* An authorized medical marihuana facility shall only be operated within the Township by the holder of a state operating license issued pursuant to PA 281 of 2016, as may be amended, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.
- 4.2. *Zoning Compliance.* Prior to operating an authorized medical marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township zoning ordinance regulations. The facility shall only be operated as long as it remains in compliance with all Township zoning ordinance regulations.
- 4.3. *Building Codes.* Prior to operating an authorized medical marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township construction and building ordinances, all other Township ordinances specifically regulating medical marihuana facilities, and generally applicable Township police power ordinances. The facility shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.
- 4.4. *Inspections.* An authorized medical marihuana facility shall consent to inspection of the facility by Township officials and/or by the County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.
- 4.5. *Odor.* As used in this subsection, building means the building, or portion thereof, used for marihuana production or marihuana processing.
 - A. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - B. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter (s) shall be rated for the applicable CFM.
 - C. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - D. Negative air pressure shall be maintained inside the building.
 - E. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

- F. An alternative odor control system is permitted if applicant submits and the Township accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The Township may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted. Any costs incurred by the Township in hiring an expert to review the alternative system design shall be paid for by the applicant.
- 4.6. *Security Cameras.* All medical marijuana facilities shall be equipped with, security cameras shall be directed to record only the subject property and may not be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the state of Michigan.
- 4.7. *Hours of Operation.* A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 9:00 a.m. and 9:00 p.m.
- 4.8. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by a medical marijuana facility.

Section 5. Initial Permit and Permit Renewal

- 5.1. The initial marijuana facility permit issued by the Township shall expire on December 31st of the year when the permit is issued, unless revoked as provided by law.
- 5.2. A valid marijuana facility permit may thereafter be renewed on an annual basis by submitting a renewal application, upon a form provided by the Township, and payment of the annual renewal fee of five thousand dollars (\$5,000). The application to renew a marijuana facility permit must be filed by no later than November 30th of each year.

Section 6. No Vested Rights.

It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized medical marijuana facility a vested right, license, privilege or permit to continued authorization from the Township for operations within the Township.

Section 7. Applicability

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marijuana facility were established without authorization before the effective date of this ordinance.

Section 8. Right to Amend or Repeal.

The Township expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized medical marihuana facilities authorized to operate within the Township.

Section 9. Violations, Penalties and Enforcement.

- 9.1. If at any time an authorized medical marihuana facility violates this ordinance the Township Board may request that the state revoke or refrain from renewing the facility's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the Township authorization.
- 9.2. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine and costs as set forth in the Charter Township of Madison Civil Infractions Ordinance. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- 9.3. In addition to being responsible for a civil infraction, the medical facility permit of any licensee who is found to be in violation of any of the provisions of this Ordinance shall be suspended until the violation is cured.
- 9.4. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.
- 9.5. This Ordinance shall be enforced and administered by the Township Police Department or such other Township official as may be designated from time to time by resolution of the Board

Section 10. Repeal

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 11. Severability.

Should any section, subdivision, sentence, clause or phrase of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 12. Publication and Effective Date.

Publication of this ordinance shall be made by causing a true copy thereof to be inserted once in a newspaper circulating within the Charter Township of Madison, which insertion

shall be made within thirty (30) days after its passage. This ordinance shall take effect immediately upon its publication.

YEAS: 7 (roll call vote) _____
NAYS: none _____
ABSENT: none _____

Ordinance declared adopted on February 13th, 2018.

Gary Griewhan
Township Supervisor for the
Charter Township of Madison

CERTIFICATION OF ADOPTION AND PUBLICATION

I, Terry Etter, the duly elected Township Clerk, certify that the foregoing ordinance was properly enacted by the township board of the Charter Township of Madison, Lenawee County, Michigan on February 13th, 2018 and that it was published in the Adrian Daily Telegram on February 20, 2018.

Terry Etter
Township Clerk for the
Charter Township of Madison