

**CHARTER TOWNSHIP OF FLINT  
COUNTY OF GENESEE, STATE OF MICHIGAN**

**ORDINANCE NO.** \_\_\_\_\_  
**ADOPTED:** \_\_\_\_\_  
**EFFECTIVE:** \_\_\_\_\_

**MEDICAL MARIHUANA FACILITIES LICENSING ORDINANCE**

FLINT TOWNSHIP, GENESEE COUNTY, MICHIGAN, HEREBY ORDAINS:

CHAPTER 4, ARTICLE 8 – **MEDICAL MARIHUANA FACILITIES LICENSING ORDINANCE**

**SEC. 4.8-1 Purpose.**

- A. It is the intent of this Ordinance to authorize the establishment of certain types of medical marihuana facilities in the Charter Township of Flint 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 as set by resolution of the Board, of not more than \$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.
- B. 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. This ordinance permits authorizations for activity based on the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. Nothing in this Ordinance shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow marihuana uses and activities not in strict accordance with the express authorizations of the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- C. 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 state or federal laws as they may be enforced by either the federal or state governments relative to such uses and activities. Thus, the authorization of activity and the approval of a license under this Ordinance shall not have the effect of superseding or nullifying federal or state law applicable to the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, and all applicants and

grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

#### **SEC. 4.8-2 Definitions**

For the purposes of this Ordinance:

- A. 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.
- B. 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.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- D. Board – refers to the Charter Township of Flint Board of Trustees.
- E. FTBD – refers to Flint Township Building Department.
- F. License – refers a medical marihuana facility(ies) license.
- G. Township – refers to Charter Township of Flint.

#### **Sec. 4.8-3 Authorization of Facilities and Fee.**

- A. The following medical marihuana facilities may be authorized to operate within the Township by the holder of a state operating license, subject to compliance with Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Rules promulgated thereunder and this ordinance:
  - 1. Class A, Class B and Class C grower(s).
  - 2. Processor(s).
  - 3. Safety compliance facility(ies).
  - 4. Secure transporter(s).
- B. Provisioning centers will not be authorized to operate within the Township.
- C. There is no limitation on the maximum number of each type of authorized marihuana facility permitted in the Township.
- D. The Board, at any time, may review this Ordinance and determine whether the number should be limited and if so, determine a maximum number for each type of marihuana facility. However, it shall not limit the number of licenses to a number less than those currently approved. The review and its findings shall be recorded in the minutes of the relevant meeting of the Board.
- E. An annual nonrefundable fee shall be paid by each marihuana facility licensed under this Ordinance in an annual amount as set by resolution of the Board, of not more than \$5,000.00.

- F. Should any person, for whatever reason, not receive a license under Sec.4.8-4C. 1. Application or 2. Provisional License, one half of the application fee may be returned provided that no appeal process has occurred.

**Sec. 4.8-4 Requirements and Procedure for Issuing License.**

- A. No person shall operate a medical marihuana facility in the Township without a valid license issued by the Township pursuant to the provisions of this Ordinance as authorized by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. A license issued under this Ordinance is valid for one year and is not transferable.
- C. The procedure in processing a request for a license will involve three steps as follows:
1. Application.
    - (a) File an application with the FTBD upon a form provided by the Township and submittal of the annual nonrefundable fee.
    - (b) Upon the applicant's completion of the application form and furnishing all required information and documentation, the FTBD shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. No application will be accepted without all required information and documentation attached.
    - (c) The FTBD will verify that the proposed site is outside the buffer zones stipulated in Section 4.8-5 of this Ordinance and verify that the property is located in a zoning district that allows the permitted use.
    - (d) The FTBD will verify that the applicant nor any owner of the applicant owes no delinquent personal property taxes, real property taxes or water and/or sewer bills or other indebtedness to the Township.
    - (e) The FTBD shall act to approve or deny an application after a fully completed application was accepted.
    - (f) If approved, the FTBD shall issue the applicant a provisional license.
  2. Standards for Issuance of Provisional License.

The FTBD shall issue a provisional license under this Ordinance when, from a consideration of the application and from such other information as may otherwise be obtained, the FTBD determines that:

- (a) The application (including any required attachments and submissions) is complete and signed by the applicant;
- (b) The applicant has paid the nonrefundable application fee and any other fees required;
- (c) The application does not contain a material falsehood or misrepresentation;

- (d) The proposed location of the facility is permitted in the location sought to be approved as outlined in Section 4.8-5.

3. Provisional License.

- (a) A provisional license means only that the applicant has submitted a valid application for a license, that the proposed facility is located in a proper zoning district, that the proposed facility is not located in a required buffer zone and 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 and the State of Michigan, and final license approval from the FTBD.
- (b) A provisional license will lapse and be void if such permits and approvals are not diligently pursued as follows:
  - (i) Existing structure with no site changes. 90 days
  - (ii) Existing structure with minimal site changes requiring an Administrative zoning review. 1 year
  - (iii) Proposed construction of a structure requiring Site Plan Review by the Planning Commission. 1 year
  - (vi) State of Michigan Marihuana Facility(ies) License. 1 year
- (c) After submission of all other permits and approvals required under the provisional license, and payment of the annual nonrefundable fee the FTBD office shall approve or deny the license.

**SEC. 4.8-5 General Regulations Regarding Authorized Medical Marihuana Facilities.**

A permit issued pursuant to this Ordinance does not eliminate the need for the applicant to obtain other required licenses and permits related to the operation of the facility(ies) sought to be approved hereunder, including, without limitation, any and all necessary business registration and licenses, building permits, mechanical permits, plumbing permits, or electrical permits. Before a license can be issued under this Ordinance, all requirements as listed below, including all other applicable provisions within the Charter Township of Flint Code of Ordinances must be met.

- A. Submit 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.
- B. Maintaining a valid license by the State of Michigan is a condition for the issuance and maintenance of a license under this Ordinance and continued operation of any marihuana facility.
- C. Site plan approval and/or other necessary approved permits per Chapter 14 (Zoning Ordinance) are required before the FTBD is permitted to issue a license. The facility

shall only be operated as long as it remains in compliance with all Township zoning Ordinance regulations.

- D. An authorized medical marihuana facility shall consent to inspection of the facility by Township officials, upon reasonable notice, to verify compliance with this Ordinance.
- E. All authorized medical marihuana facilities will be a permitted use in Industrial Zoned areas if they meet the following criteria:
  - 1. Hours of operation of safety compliance facilities shall be restricted to be between the hours of 7 am to 7 pm.
  - 2. Buffer Requirements are considered a setback or separation area in which a medical marihuana use permitted under this Ordinance must maintain a defined spacing from an existing use as stated below. Buffers are measured from the property line by the FTBD. A proposed medical marihuana use must be outside of designated buffer areas.
    - (a) A 1,000-foot buffer is required from all public, parochial and other private schools offering courses in general education, and consisting of grade levels kindergarten through 12<sup>th</sup> grade or a library. This buffer requirement is in correlation with the State of Michigan Drug Free School Zone (MCL 333.7410) not including measuring procedures along a public right-of-way.
    - (b) A 500-foot buffer is required from all properties zoned R-1A, R-1B, R-1C, R-1D, RM-1, RHM, and licensed child care facilities, child day care centers, nursery schools and child care institutions. All facilities listed here pertain to child care facilities that cater to children under the age of 18. Such facilities, centers and institutions are further defined in Section 14.1-7 of the Zoning Ordinance.
    - (c) A 200-foot buffer is required from all designated public parks within the Township.
  - 3. Buildings used for grow facilities, processor facility, safety compliance facility and secure transport 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. 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. 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 or as determined by the manufacture's recommendations. Negative air pressure shall be maintained inside the building. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
    - (a) An alternative odor control system is permitted if the applicant submits and the Township Planning Commission 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 FTBD 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.

- D. Authorized medical marihuana safety compliance facilities with less than 1,000 square feet of storage/warehousing will be a permitted use in any commercial district where medical uses are allowed, if they meet the following criteria:
1. Hours of operation of safety compliance facilities shall be restricted to be between the hours of 7 am to 7 pm.
    - (a) Buffer Requirements are considered a setback or separation area in which a medical marihuana use permitted under this Ordinance must maintain a defined spacing from an existing use as stated below. Buffers are measured from the property line as determined by the FTBD. A proposed medical marihuana safety compliance facility with less than 1,000 square feet of storage/warehousing use must be outside of designated buffer areas.
      - (i) A 1,000-foot buffer is required from all public, parochial and other private schools offering courses in general education, and consisting of grade levels kindergarten through 12<sup>th</sup> grade. This buffer requirement is in correlation with the State of Michigan Drug Free School Zone (MCL 333.7410) not including measuring procedures along a public right-of-way.
- E. If at any time an authorized medical marihuana facility violates this Ordinance the 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 FTBD shall cancel the Township authorization and the authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.
- F. It is hereby expressly declared that nothing in this Ordinance be held or construed to give or grant to any authorized medical marihuana facility a vested right, license, privilege or permit to continued authorization from the Township for operations within the Township.
- G. 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.

#### **SEC. 4.8-6 Denial or Revocation of License and Appeal Process**

- A. Denial. An application may be denied by the FTBD in writing setting forth the grounds for such denial for one or more of the following criteria:

1. A failure to meet the conditions or maintain compliance with the standards and requirements established by this Ordinance in reference to the operation of a licensed facility; or
2. One or more violations of the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., or any Township Ordinance on the premises; or
3. Maintenance of a nuisance on the premises; or
4. Nonpayment of/or past due delinquent personal property taxes, real property taxes or water and/or sewer bills, fines, liens or other indebtedness to the township; or
5. A demonstrated history of excessive calls for public safety (police, fire and ambulance); or
6. Applicant has made or provided false information in the application or has otherwise become disqualified for the issuance of a license within any part of the requirement and procedure for issuing a license.

B. Revocation. A license may be revoked by the FTBD based on the following:

1. Violation of the standards for approval in Section 4.8-6A of this Ordinance.
2. Denial, suspension, revocation or restriction of license by the State of Michigan.
3. A violation of the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., any state or local regulations, the provisions of this Ordinance or the provisions of a license.
4. Conviction of or release from incarceration for a felony under the laws of this state, or any other state, or the United States of the applicant or the applicant's managerial employees within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.
5. Conviction of an applicant or an applicant's managerial employees of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or has been found responsible for violating a local Ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the last 5 years.
6. Operations have ceased at the facility for more than 90 days, including during a change of ownership of the facility.
7. Ownership of the facility has been transferred without the new owner obtaining a license pursuant this Ordinance.

C. Notice of Decision.

The FTBD shall notify the applicant of the decision to deny an application for or the revocation of a license under the terms and provisions of this Ordinance within three business days of rendering the decision. Notice shall be given by mailing a copy of the FTBD's decision to the applicant or license holder by first class mail and certified mail postage prepaid with return receipt requested and/or personal service, at the address shown in the application. Notice is deemed to have been properly given upon mailing and/or personal service.

#### D. Appeal Process.

An applicant or licensee has the right to appeal the FTBD's denial of an application for or the revocation of a license to the Board.

1. Any person whose application or license has been denied, suspended, revoked or restricted by the State of Michigan has no recourse through the appeal process with the Township.
2. Any person whose application or license has been denied or revoked under 4.8-6A. or 4.8-6B. by the FTBD will have thirty (30) days from the date of the notice to provide a written response to the FTBD.
3. The applicant or licensee shall be provided with not less than ten (10) days' prior written notice of the appeal hearing to be held by the Board.
4. The burden of proof in an appeal filed under this section shall be on the applicant or licensee.
5. If the Board finds by a preponderance of the evidence that the decision of the FTBD was correct, the Board shall uphold the decision of the FTBD. If the Board finds by a preponderance of the evidence that the decision of the FTBD was incorrect, the FTBD's decision shall be set aside and the license issued (if it was previously denied) or reinstated (if it was previously revoked).
6. Any decision made by the Board pursuant to this section shall be a final decision and may be appealed to a court of competent jurisdiction by any person within thirty (30) days of the date of the Board decision. The applicant's or licensee's failure to timely appeal the decision is a waiver the applicant's or licensee's right to contest the denial of the application or the revocation of the license.
7. Any person whose license has been denied or revoked shall not be able to reapply for any type of license allowed under this Ordinance for one year from the date a denial or revocation became effective.

#### **SEC. 4.8-7 License Renewal**

- A. A license shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid License shall be renewed on an annual basis by submitting a renewal application upon a form provided by the Township and payment of the annual license fee. Application to renew a medical license shall be filed at least thirty (30) days prior to the date of its expiration.

#### **SEC. 4.8-8 Applicability**

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

#### **SEC. 4.8-9 Penalties and Enforcement**

- 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. A violation of this Ordinance is deemed to be a nuisance per se.
- B. A violation of this Ordinance is a municipal civil infraction. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
- C. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this Ordinance, and such other relief as may be provided by law.

#### **SEC. 4.8-10 Severability**

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such Ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing medical marihuana facilities pursuant to PA 281 of 2016, as may be amended.

#### **SEC. 4.8-11 Repeal**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

#### **SEC. 4.8-12 Effective Date**

This Ordinance shall take effect thirty days after publication upon adoption or the effective date of the zoning ordinance amendment to bring the zoning ordinance into compliance with this Ordinance, whichever is later.