

**TOWNSHIP OF SAUGATUCK
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, TOWNSHIP OF SAUGATUCK, MICHIGAN, TO ADD A NEW CHAPTER 5, ENTITLED "MARIHUANA FACILITIES AND ESTABLISHMENTS," TO PROHIBIT RECREATIONAL MARIHUANA ESTABLISHMENTS AND ALLOW CERTAIN MEDICAL MARIHUANA FACILITIES OPERATED IN ACCORDANCE WITH STATE LAW

The Township of Saugatuck Ordains:

Section 1. Addition. A new Chapter 5, entitled "Marihuana Facilities and Establishments," is added to the Code of Ordinances, Township of Saugatuck, Michigan, to read in its entirety as follows:

**CHAPTER 5
MARIHUANA FACILITIES AND ESTABLISHMENTS**

§ 5.1. Definitions.

The following words and phrases have the meanings ascribed to them when used in this chapter:

- (a) *Co-location or co-located* means the siting and operation of a combination of multiple facilities or facility types at a single location.
- (b) *Establishment or recreational marihuana establishment* means a location at which a license holder is licensed to operate under the MRTMA.
- (c) *Facility or medical marihuana facility* means a location at which a license holder is licensed to operate under the MMMFLA.
- (d) *Facility plan* means the plans required to be submitted to LARA in accordance with the MMMFLA rules that includes among other things diagrams, floor plans, construction details, etc.
- (e) *Facility-specific step* means the portion of the application for a state operating license under the MMMFLA that follows the prequalification step and pertains to the details of the proposed facility.
- (f) *Grower* means an MMMFLA 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.
- (g) *LARA* means the department of licensing and regulatory affairs and any successor agency to the department.
- (h) *Licensee* means a person holding a state operating license.
- (i) *Licensing board* means the medical marihuana licensing board created by the MMMFLA.
- (j) *Marihuana* means all parts of the plant *Cannabis sativa* L., growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination. Marihuana does not include industrial hemp grown or cultivated, or both, for research purposes under the industrial hemp research act.
- (k) *MMMA* means the Michigan medical marihuana act, 2008 IL 1, as amended, MCL 333.26424 *et seq.*
- (l) *MMMFLA* means the Michigan medical marihuana facilities licensing act, 2016 PA 281, as amended, MCL 333.27102 *et seq.*
- (m) *MMMFLA rules* means rules promulgated by LARA to implement the MMMFLA.
- (n) *MRTMA* means the Michigan regulation and taxation of marihuana act, 2018 IL 1, as amended, MCL 333.27951.

- (o) *Prequalification step* means the portion of the application for an MMMFLA state operating license pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons.
- (p) *Processor* means an MMMFLA licensee that is a commercial entity located in this state that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana- infused product for sale and transfer in packaged form to a provisioning center.
- (q) *Provisioning center* means an MMMFLA licensee that is a commercial entity located in this state that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marijuana 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 through LARA's marijuana registration process in accordance with the MMMA is not a provisioning center for purposes of this chapter.
- (r) *Safety compliance facility* means an MMMFLA licensee that is a commercial entity that receives marijuana from a facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the facility.
- (s) *Secure transporter* means an MMMFLA licensee that is a commercial entity located in this state that stores marijuana and transports marijuana between marijuana facilities for a fee.
- (t) *Stacked grower license* means more than 1 state operating license issued to a single MMMFLA licensee to operate as a grower of class C-1,500 marijuana plants as specified in each license at a facility.
- (u) *State operating license* or, unless the context requires a different meaning, "license" means a license that is issued under the MMMFLA that allows the licensee to operate as a grower, processor, secure transporter, provisioning center, or a safety compliance facility.

§ 5.2. Authorizations and Prohibitions.

- (a) *Establishments prohibited.* Recreational marijuana establishments are prohibited in the Township.
- (b) *Facilities eligible for authorization.* The following medical marijuana facilities may be authorized to operate in the Township:
 - (1) Growers;
 - (2) Provisioning centers;
 - (3) Safety compliance facilities.
- (c) *Final authorization from Township required.* The authorization process described in section 5.3 determines the locations in the Township at which facilities may operate. A proposed facility is not eligible for a state operating license until the clerk grants final authorization.

§ 5.3. Application for Authorization.

- (a) *Submission.* A person may apply for authorization to operate a facility within the Township by submitting the following items to the clerk. These items may be submitted to the clerk before applying for requisite zoning approvals:
 - (1) A copy of official paperwork issued by LARA indicating that the applicant has successfully completed the prequalification step of the application for a state operating license.
 - (2) A signed statement from the applicant indicating:
 - (A) The current property owner of record;
 - (B) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicants. Only one application shall be submitted per property, unless the applications are for proposed co-located facilities;
 - (C) The address, tax identification number, and zoning designation of the proposed facility;
 - (D) The proposed facility type;
 - (E) If the proposed facility type involves stacked growing licenses, the number of licenses sought; and
 - (F) Written consent for the Township or law enforcement agencies serving the Township to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations.
 - (3) An advance of the annual administrative fee of \$5,000 per license.
- (b) *Conditional authorization.* The clerk will accept and conditionally authorize any application that includes the required items listed above.
- (c) *Final authorization.* The clerk will grant final authorization for the facility if the applicant:
 - (1) Obtains all required zoning approvals for the facility within 12 months of receiving conditional authorization; and
 - (2) Obtains a state operating license within 18 months of receiving conditional authorization.
- (d) *Expiration of conditional authorization.* If the applicant for a conditionally authorized facility fails to satisfy any of the deadlines established above, the conditional authorization will expire.

§ 5.4. Relocation of Facilities, Transfers of Licenses, and Expansion of Grow Operations.

- (a) An existing facility may be moved to a new location in the Township, subject to applicable zoning regulations and approval by the Licensing Board.
- (b) A license for an existing facility may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by the Licensing Board.
- (c) No further Township approvals are required for the relocations and license transfers described in this section.
- (d) A licensee may expand growing operations by upgrading the class of the license (e.g., from class A to class B, or from class B to Class C), or by obtaining a stacked license. To do so, the licensee must submit a new application to the Township satisfying the requirements in section 5.3(a), which shall include payment any additional annual administrative fee that will be owed due to the addition of stacked licenses. The application shall be conditionally approved upon receipt of all required materials.

§ 5.5. General Regulations.

- (a) *Submission of supplementary information to the Township.* Applicants who have received conditional authorization and persons operating in the township must provide the clerk with copies of all documents submitted to LARA in connection with the license application, subsequent renewal applications, or investigations conducted by LARA. The documents must be provided to the clerk within 7 days of submission to LARA, and may be submitted by electronic media unless otherwise

requested by the clerk.

- (b) *Compliance with applicable laws and regulations.* Medical marihuana facilities must be operated in compliance with the MMMFLA, MMMFLA rules, all conditions of the facility's state operating licenses, and all applicable ordinances. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.
- (c) *No consumption on premises.* No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any facility. It shall be a violation of this chapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marihuana on or within a premise in violation of this section:
 - (1) The person had control over the premises or the portion of the premises where the marihuana was consumed;
 - (2) The person knew or reasonably should have known that the marihuana was consumed; and
 - (3) The person failed to take corrective action.
- (d) *Annual fee.* A licensee must pay a fee of \$5,000, for each license used within the Township in order to help defray administrative and enforcement costs. The holder of a stacked grower license must pay a separate fee in the amount of \$5,000 for each license. The initial annual fee(s) must be paid to the clerk when the application for approval is submitted. In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license.

§ 5.6. Violations.

- (a) *Request for revocation of state operating license.* If at any time an authorized facility violates this chapter or any other applicable ordinance, the Township Board may request that LARA revoke or refrain from renewing the facility's state operating license.
- (b) *Civil infraction.* It is unlawful to disobey, neglect, or refuse to comply with any provision of this chapter. A violation of this chapter is a municipal civil infraction and a nuisance per se. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to the following fines:
 - (1) First violation = \$500
 - (2) Second offense = \$2,500
 - (3) Each subsequent offense = \$5,000
- (c) *Other remedies.* The foregoing sanctions are in addition to the Township's right to seek other appropriate and proper remedies, including actions in law or equity.

Section 2. Publication and Effective Date. The Township Clerk shall cause to be published a notice of adoption of this ordinance within 30 days of the date of its adoption. This ordinance shall take effect the day following its publication.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This is a true and complete copy of Ordinance No. ____ adopted at a regular meeting of the Township of Saugatuck Board held on _____, 2019.

Chris Roerig, Township Supervisor

_____, Township Clerk

Adopted: _____, 2019
Published: _____, 2019
Effective: _____, 2019