

PART 25: ORDINANCE 3

MEDICAL MARIHUANA FACILITIES LICENSING ORDINANCE

AN ORDINANCE TO PROVIDE FOR THE REGULATION AND LICENSING OF MEDICAL MARIHUANA FACILITIES IN LENOX TOWNSHIP AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.

LENOX TOWNSHIP ORDAINS:

ARTICLE I. GENERALLY

SECTION 1: Purpose and Intent.

A. *Purpose.* The purpose of this Ordinance is to implement the provisions of Public Act 281 of 2016, being the Michigan Medical Marihuana Facilities Licensing Act, so as to protect the public health, safety, and welfare of the residents and registered qualifying patients in the Township by setting forth the manner in which medical marihuana facilities can be operated in the Township. Further, the purpose of this Ordinance is to:

- (1) Provide for a means of cultivation, processing, and distribution of medical marihuana to patients who qualify to obtain, possess, and use marihuana for medical purposes under 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) Protect public health, safety and welfare through reasonable limitations on marihuana commercial entity operations as they relate to noise, odor, air and water quality, neighborhood and patient safety, security for the facility and its personnel, and other health, safety and welfare concerns;
- (3) Protect residential neighborhoods and related uses and prevent secondary effects by restricting the number, location and concentration of the various types of medical marihuana facilities to specific areas of the Township;
- (4) Impose fees to defray and recover the cost to the Township of the administrative and enforcement associated with medical marihuana facilities and any secondary effects that may arise therefrom;
- (5) Coordinate with laws and regulations that may be enacted by the State addressing medical marihuana and medical marihuana facilities; and
- (6) Restrict the issuance of medical marihuana facility licenses only to individuals and entities that have demonstrated an intent and ability to comply with this Ordinance and other ordinances of the Township.

B. *Legislative Intent.* This Ordinance authorizes the establishment of medical marihuana facilities within Lenox Township consistent with the provisions of the Michigan Medical Marihuana Facilities Act and subject to the following:

(1) Medical marihuana cultivation, processing, transportation, provisioning and related transactions can have an impact on public health, safety, welfare, and community resources, and this Ordinance is intended to permit medical marihuana facilities to an extent and in a manner in which they will have less or lower impacts.

(2) The regulations applicable to medical marihuana facilities are not adequate at the state level to address the local impacts on the Township of the commercialization of medical marihuana, making it appropriate and necessary for local regulation of medical marihuana facilities to be implemented.

(3) This Ordinance is to be construed to protect the public over medical marihuana facility interests. Operation of a medical marihuana facility is a revocable privilege and not a right in the Township. There is no property right for an individual or facility to engage in, or obtain or retain a license to operate a medical marihuana facility in the Township.

(4) Use, provisioning, distribution, cultivation, production, possession, and transportation of medical marihuana remains illegal under federal law, and marihuana remains classified as a "controlled substance" by federal law and state law in Michigan.

(5) By adopting this Ordinance, the Township and its Township Board, Planning Commission, officials, employees, consultants, attorneys and other representatives are not, do not intend to be, and shall not be construed as promoting, encouraging, advocating, prescribing, condoning, aiding or abetting the use, growing, cultivation, production, processing, providing, distribution, transportation, or possession of marihuana in violation of any applicable law.

(6) Because medical marihuana is a heavily regulated industry, all licensees are assumed to be fully aware of the law and ordinances. The Township shall not therefore be required to issue warnings before issuing citations for violations of this Ordinance or taking action to revoke or suspend licenses.

SECTION 2: Relationship to Federal and State Laws.

A. *Relationship to Federal Law.* As of the effective date of this Ordinance, marihuana is classified as a Schedule 1 controlled substance under federal law which makes it unlawful to manufacture, distribute, cultivate, produce, possess, sell, dispense, provide or transport marihuana. Nothing in this Ordinance shall be considered or construed to, or is intended to grant immunity from or a defense against any criminal prosecution under federal law.

B. *Relationship to State Law.*

(1) Except as otherwise provided by the MMFLA and this Ordinance, a licensee and its employees and agents who are operating a marihuana facility in full compliance with valid State-issued and Township-issued operating licenses are not subject to criminal or civil prosecution under Township ordinances regulating marihuana.

(2) Except as otherwise provided by the MMFLA and this Ordinance, a person who owns or leases real property upon which a marihuana facility is located and who has no knowledge that the licensee is violating the MMFLA or a provision of this Ordinance, is not subject to criminal or civil prosecution under Township ordinances regulating marihuana.

(3) Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, provisioning, distribution or transport of marihuana in any form, that is not in strict compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act, and all applicable rules and regulations promulgated by the State of Michigan regarding medical marihuana. Strict compliance with all applicable State laws or regulations shall be deemed a requirement for the issuance, continuation and renewal of any license issued under this Ordinance, and noncompliance with any applicable State law or regulation shall be grounds for revocation, suspension or nonrenewal of any license issued under the terms of this Ordinance.

(4) A registered qualifying patient or registered primary caregiver is not subject to criminal prosecution or sanctions by the Township for purchasing marihuana from a licensed provisioning center if the quantity purchased is within the limits established under the Michigan Medical Marihuana Act or under any other state law or regulation. A registered primary caregiver is not subject to criminal prosecution or sanctions by the Township for any transfer of 2.5 ounces or less of marihuana to a safety compliance facility for testing.

SECTION 3: Liability and Indemnification of Township.

A. By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the Township, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marihuana facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this Ordinance, all licensees agree to indemnify, defend and hold harmless the Township, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including, but not limited to: (i) any claim of diminution of property value by a property owner whose property is located in proximity to a licensed marihuana facility, (ii) any claim arising out of the operation of, or use of a product cultivated, processed, distributed or sold by or from, a licensed marihuana facility; or (iii) any alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §1964(c).

C. By accepting a license issued pursuant to the Ordinance, a licensee agrees to indemnify, defend and hold harmless the Township, its officers, elected officials, employees, and insurers, against all liability, claims, penalties, or demands arising on account any alleged violation of the federal Controlled Substances Act, 21 U.S.C. §801 et seq. or Article 7 of the Michigan Public Health Code, MCL 333.7101 et seq.

SECTION 4: 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, unless such term is defined differently in this Ordinance in which case it shall have the definition provided herein.

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, unless such term is defined differently in this Ordinance in which case it shall have the definition provided herein.

C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act, unless such term is defined differently in this Ordinance in which case it shall have the definition provided herein.

D. "Applicant" means a person who applies for a license under this Ordinance. With respect to disclosures in an application, or for purposes of ineligibility for a license, the term applicant includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

E. "Cultivate" or "Cultivation" means: (1) all phases of marihuana growth from seed to harvest; and (2) the preparation, packaging, and labeling of harvested usable marihuana.

F. "Department" means the Michigan Department of Licensing and Regulatory Affairs, or its successor agency.

G. "Grower" means a licensee that is a commercial entity located in Michigan that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

H. "Licensee" means a person holding a Township or State operating license, or both, for a marihuana facility.

I. "Marihuana" means that term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106; 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.

J. "Marihuana facility" and "medical marihuana facility" mean an enterprise at a specific location at which a licensee is licensed to operate under this Ordinance and the Medical Marihuana Facilities Licensing Act, 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 registered primary caregiver.

K. "Marihuana plant" means any plant of the species *Cannabis sativa* L.

L. "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 et seq.

M. "Medical Marihuana Facilities Licensing Act" or "MMFLA" means Public Act 281 of 2016, MCL 333.27101 et seq., as may be amended.

N. "Michigan Medical Marihuana Act" or "MMMA" means 2008 IL 1, MCL 333.26421 et seq., as may be amended.

O. "Michigan Marihuana Tracking Act" means Public Act 282 of 2016, MCL 333.27901 et seq., as

may be amended.

P. "Paraphernalia" means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

Q. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

R. "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

S. "Processor" means a licensee that is a commercial entity 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 only to a provisioning center.

T. "Provisioning center" means a licensee that is a commercial entity that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana only to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail only to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a registered qualifying patient connected to the caregiver through the Department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this Ordinance.

U. "Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the MMMA.

V. "Registered qualifying patient" means a qualifying patient who has been issued a current registry identification card under the MMMA or a visiting qualifying patient as that term is defined in the MMMA.

W. "Rules" means regulations and rules promulgated by the Department in consultation with the State Board to implement the MMFLA.

X. "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.

Y. "Secure transporter" means a licensee that is a commercial entity that stores marihuana for and transports marihuana between marihuana facilities for a fee.

Z. "State Board" means the medical marihuana licensing board created pursuant to Part 3 of the MMFLA.

AA. "State operating license," "state license" or "state-issued license" mean a license that is

issued under the MMFLA that allows the licensee to operate as 1 of the following marihuana facilities, as specified in the license:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A provisioning center.
- (5) A safety compliance facility.

BB. "Statewide monitoring system" or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the Department under the Marihuana Tracking Act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (1) Verifying registry identification cards.
- (2) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (3) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, MCL 333.26424.

CC. "Township Board" means the Lenox Township Board of Trustees.

DD. "Township license" or, unless the context requires a different meaning, "license" mean a license that is issued under this Ordinance that allows the licensee to operate as 1 of the following marihuana facilities, as specified in the license:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A provisioning center.
- (5) A safety compliance facility.

EE. "True party of interest" means:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.
- (3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.
- (4) For a publicly held corporation: all corporate officers or persons with equivalent titles and

their spouses.

(5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(7) For a trust: the names of the beneficiaries.

However, "true party of interest" does not mean:

(1) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(2) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based on a written incentive or bonus program that is not out of the ordinary for the services rendered.

FF. "Usable marihuana" means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

SECTION 5: Retroactive Effect.

This ordinance shall have retroactive effect. With the exception of a medical marihuana registered primary caregiver use lawfully established under and operated in compliance with Section 337.3 of the Township Zoning Ordinance and the Michigan Medical Marihuana Act, any use of land or facility which purports to have engaged in the growing, cultivation, production, processing, providing, distribution, transportation and/or testing of medical marihuana without having the required licensing set forth in this Ordinance shall be deemed to be unlawful, even if such use or facility existed prior to the effective date of this Ordinance, and shall not entitled to legal nonconforming use status under the provisions of the Township Zoning Ordinance, this Ordinance and/or state law.

ARTICLE II. TOWNSHIP LICENSES

SECTION 1: Licensing of Medical Marihuana Facilities.

A. *Number of permitted marihuana facilities.* The maximum number of each type of medical marihuana facility permitted to be licensed and operate in the Township is as follows:

<u>Type of Facility</u>	<u>Number</u>
Growers	5 - Class A (up to 500 marihuana plants) 5 - Class B (up to 1,000 marihuana plants) 5 - Class C (up to 1,500 marihuana plants)
Processor	3
Secure Transporter	3
Provisioning Center	3
Safety Compliance Facility	3

B. *Location criteria.*

(1) No medical marihuana facility shall be eligible to be issued a license unless the location of the proposed facility complies with the separation distances from other uses and all other applicable zoning regulations as set forth in the Township Zoning Ordinance as required for the specific type of medical marihuana facility for which licensure is being sought.

(2) A licensee shall not operate a marihuana facility at any place in the Township other than the address provided in the application on file with the Township Clerk.

(3) Six months or more after the effective date of this Ordinance, the Township Board may review the maximum number of each type of marihuana facility allowed under this Ordinance and determine whether this maximum number should be changed. The Township Board may, in its discretion, refer the issue to the Planning Commission for a review and recommendation. The Township Board's review and findings shall be recorded in the minutes of the relevant meeting.

SECTION 2: License and Annual Fee Required.

A. No person shall establish or operate a marihuana facility in the Township without first having obtained from the Township and the State a license for each such facility to be operated. License certificates shall be kept current and publicly displayed within the facility. Failure to maintain or display a current license certificate shall be a violation of this Ordinance.

B. An annual nonrefundable fee shall be paid to the Township for purposes of defraying the administrative, enforcement and other costs associated with medical marihuana facilities located in the Township. Such annual fee shall be in an amount not to exceed \$5,000 per licensed facility as set by resolution adopted by the Township Board.

C. The annual nonrefundable fee required under this Section shall be due and payable prior to issuance of a Township license and upon the application for renewal of any such license under this Ordinance.

D. The license fee requirement set forth in this Ordinance shall be in addition to, and not in lieu of, any other licensing and permitting fee requirements imposed by any other federal or state law or regulation, or Township ordinance, including, without limitation, the fees associated with any applicable zoning, water, sewer and building permits and the license application fees under this Ordinance.

E. The issuance of any license pursuant to this Ordinance does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the use, growing, cultivation, production, processing, distribution, provisioning, sale, transportation, or possession of marihuana under federal law.

F. A separate license shall be required for each marihuana facility. Except as may be specifically provided in this Ordinance, no two or more different medical marihuana facilities may be treated as one premise.

SECTION 3: General License Application Requirements.

A. A person seeking a license pursuant to the provisions of this Ordinance shall submit a signed application, under oath with notarization, to the Township Clerk. The application shall, at a minimum, include all of the information identified below, under the penalty of perjury, using a Township-issued form application, and the information required under subsections (1) through (10) below shall be provided for the applicant, the proposed manager of the marihuana facility, and all persons who are true parties of interest in the marihuana facility that is the subject of the application:

- (1) Name, address, birth certificate, business address, business telephone number, social security number, federal tax identification number (if a business entity), and driver's license number or state identification number (if not a business entity).
- (2) If a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, its formation documents and any amendments, and its proof of registration with and a certificate of good standing from the State of Michigan.
- (3) The identity of every person having any ownership interest in the applicant with respect to which the license is sought.
- (4) A resume that includes all experience with medical marihuana and any related industry.
- (5) Any indictments for, charges with, arrests for, or convictions of, pleas of guilty or nolo contendere to, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled-substance-related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.
- (6) Whether the person has applied for or been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
- (7) Whether the person has filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.
- (8) A criminal background report of the applicant's criminal history. Such reports shall be obtained by the applicant through the Internet Criminal History Access Tool (ICHAT) for applicants residing in Michigan and/or through another state sponsored or authorized criminal history access source for applicants who reside in other states or have resided in other states within five (5) years prior to the date of the application. The applicant is responsible for all charges incurred in requesting and receiving the criminal history report and the report must be dated within thirty (30) days of the date of the application.

(9) An acknowledgment and consent that the Township may conduct background investigation, including without limitation its own independent criminal history check, and that the Township will be entitled to full and complete disclosure of all financial records of the person, including records of deposit, withdrawals, balances and loans as part of the application review process and during the term of any Township license issued to the applicant.

(10) Affidavits signed by the applicant and each person who is a true party of interest in the marihuana facility that they are not in default to the Township. Specifically, that the applicant and persons who are true parties of interest in the marihuana facility have not failed to pay any property taxes, special assessments, fines, fee or other financial obligation to the Township.

(11) One of the following: (a) proof of ownership of the entire property wherein the medical marihuana facility is to be operated; or (b) if the applicant is not the owner of the proposed licensed premises, a notarized sworn statement from the owner of such property authorizing the use of the property for a marihuana facility along with a copy of any lease for the premises.

(12) A description of the type of marihuana facility proposed.

(13) The anticipated or actual number of employees that will be employed by the marihuana facility.

(14) A "to scale" plan of the proposed licensed property and building, containing plan sheets measuring no larger than eleven (11) inches by seventeen (17) inches, showing, without limitation, the property boundary lines, exterior building elevations, building layout, floor plan, all entryways and exits to the building (and to all portions thereof to be used as the proposed marihuana facility), the purpose and use of all rooms and areas of the building, parking, walks, driveways, loading and unloading zones, fences, walls, landscaping and all areas in which medical marihuana will be received, stored, grown, cultivated, manufactured, processed, packaged, loaded, unloaded, handled, tested, displayed and dispensed. The plan shall also show, to scale, any proposed sign(s), including text, symbols and graphical materials, to be displayed in windows or on the exterior of the proposed medical marihuana facility or elsewhere outdoors.

(15) A comprehensive facility operation plan for the marihuana facility which shall contain, at a minimum, the following:

a. A security plan and narrative depicting and fully describing the manner and equipment by which the applicant will comply with the requirements of this Ordinance and any other applicable law, rule, or regulation, and the details of all security arrangements to protect the facility and the safety of its employees and members of the public who are lawfully on the premises of the facility. Each medical marihuana facility must have a security guard present during business hours, or alternative security procedures shall be proposed in the facility operation plan for consideration. If requested in writing by the applicant, the security plan will be kept confidential and protected from disclosure to the extent allowed under the Michigan Freedom of Information Act, MCL 15.231 et seq. If the Township finds that such documents are subject to disclosure, it will attempt to provide at least 2 business days' notice to the applicant prior to such disclosure.

b. For grower and processor facilities, a plan that specifies the methods to be used to ensure compliance with restrictions and limitations on discharges into the wastewater system of the Township.

c. A lighting plan showing the lighting outside of the medical marijuana facility for security purposes and compliance with applicable Township requirements.

d. A plan for disposal of any medical marijuana or medical marijuana-infused product that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed, used or ingested by any person or animal.

e. A plan for ventilation of the medical marijuana facility that describes the ventilation and filtration systems that will be used to prevent any odor of medical marijuana off the premises of the business and how the system will meet all requirements of this Ordinance and State laws and rules regarding odor control and ventilation. For grower facilities, such plan shall also include all ventilation and filtration systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the facility. For processor facilities, such plan shall also include all ventilation and filtration systems used to mitigate and control noxious gases or other fumes used or created as part of the production and processing process.

f. A description of all herbicide, pesticide, fertilizer and chemical materials and all toxic, flammable and combustible materials that will be used or kept at the marijuana facility, the location of such materials, and how such materials will be stored and disposed.

g. A statement and description by a Michigan licensed electrician and Michigan licensed plumber of the amount of the projected daily average and peak electric load and quantity of water that will be used by the marijuana facility, the plumbing and electrical wiring and equipment existing or to be installed on the premises to service and meet the demands of the marijuana facility, and certification that the premises is or will be equipped, in accordance with all applicable codes, to safely receive, accept, utilize and dispose of the anticipated and required electric load and water for the facility.

(16) With respect to medical marijuana provisioning centers: (a) a patient education plan to detail to patients the benefits or drawbacks of certain marijuana strains or products in connection with the debilitating medical conditions set forth in the Michigan Medical Marijuana Act; and (b) a description of drug and alcohol awareness programs that shall be provided or arranged for by the applicant and made available for the public.

(17) An estimate of the number and type of jobs that the medical marijuana facility is expected to create, the amount and type of compensation expected to be paid for such jobs, and the projected annual budget and revenue of the medical marijuana facility.

(18) A description of the training and education that, the applicant will provide to all employees.

(19) A description of any community outreach/education plans and strategies proposed to be undertaken by the applicant.

(20) A description of any charitable plans and strategies, whether fiscally or through volunteer work, proposed to be undertaken in the community or elsewhere by the applicant.

(21) Proof of insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. Such policy of insurance shall provide worker's compensation insurance as required by state law and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least A-. The policy shall name Lenox Township and its officials and employees as additional insureds to the limits required by this subsection. An applicant or its insurance broker shall notify the Township of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. In the event of expiration or cancellation of coverage, the applicant shall forthwith obtain and submit proof of substitute insurance to the Township Clerk within 5 business days.

(22) A signed acknowledgment that the applicant and each person who is a true parties of interest in the marihuana facility is aware and understands that all matters related to marihuana growing, cultivation, possession, dispensing, testing, safety compliance, transporting, distribution, and use are currently subject to state and federal laws, rules, and regulations, and that the approval or granting of a license by the Township does not exonerate or exculpate the applicant or any person who is a true party of interest from abiding by the provisions and requirements and penalties associated with those laws, rules and regulations or exposure to any penalties associated therewith; and further the applicant and each person who is a true party of interest waives and forever releases any claim, demand, action, legal redress, or recourse against Lenox Township, its elected and appointed officials and its employees and agents for any claims, damages, liabilities, causes of action, damages, and attorney fees the applicant may incur as a result of the violation by applicant, its officials, members, partners, shareholders, employees and agent of those laws, rules, and regulations and thereby waives, and assumes the risk of, any such claims and damages, and lack of recourse against Lenox Township, its elected and appointed officials, employees, attorneys, and agents.

(23) Any additional information or materials that the Township's Clerk, Treasurer, Building Official, Planning and Zoning Administrator, Fire Marshal, Engineer, Chief Ordinance Enforcement Official or law enforcement agency determines to be necessary in connection with the investigation and review of an application.

B. The application must also include an application fee in an amount to be established by resolution of the Township Board to defray the costs incurred by the Township for background investigations, reviews of financial records and inspection of the proposed premises, as well as any other costs associated with the processing of the application. The application fee shall be nonrefundable, except as may be otherwise specified in this Ordinance.

C. The information provided to the Township Clerk pursuant to this section relative to licensure is exempt from disclosure if and to the extent allowed under the MMFLA, the Freedom of Information Act, MCL 15.231 *et seq.*, or other applicable laws.

D. Applications must be hand delivered to the Clerk at the Township Hall or mailed. Applications shall not be submitted by electronic transmission (email or otherwise), facsimile or any method other than mail or personal hand delivery as described above, and any applications submitted by such non-compliant methods will not be accepted, considered as having been received, or processed under this Ordinance. Applications shall not be submitted to the Township until the

date this Ordinance and the amendment to the Township Zoning Ordinance allowing marihuana facility uses are both effective.

E. An applicant may withdraw its application, in a writing delivered to the Clerk, at any time until issuance of the license. In the event a written withdrawal is delivered to the Clerk within 5 business days of the date of submission marked on the application by the Clerk pursuant to this Ordinance, the Township shall refund 95% of the application fee.

SECTION 4: Initial License Application Processing.

A. Upon receipt of an application, the Township Clerk shall assign it a sequential application number by marihuana facility type based on the date and time of its receipt by the Clerk. If multiple applications for a single type of marihuana facility are personally hand delivered to the Clerk or received by mail on the same date and at the same time, the Clerk shall enter each application into a lottery in which the applications will be randomly and blindly drawn by the Clerk in the presence of the Township Supervisor or Township Treasurer or one of their respective deputies or designees.

B. The Township Clerk shall circulate each application to the Township Treasurer, Building Official, Planning and Zoning Administrator, Fire Marshal, Engineer, Chief Ordinance Enforcement Official and law enforcement agency, each of whom shall review the application to preliminarily verify and evaluate the information provided and to determine whether the application and marihuana facility, as proposed, is or will be in compliance with this Ordinance, the Zoning Ordinance, the MMFLA, the MMMA, and other applicable State and Township ordinances, laws, rules, codes and regulations, including undertaking any necessary investigations and inspections for such purposes, and issue a report directed to the Township Board regarding their respective preliminary findings and determinations. Said reports shall be delivered to the Township Clerk. In the event the Township Treasurer, Building Official, Planning and Zoning Administrator, Fire Marshal, Engineer, Chief Ordinance Enforcement Official or law enforcement agency determines that the information in the application is incomplete or additional information is required in order to complete the review, the Township Clerk shall be notified of same and the above-described report to the Township Board shall not be issued unless and until the missing and/or additional information has been provided by the applicant in accordance with subsection C, below.

C. If at any time during the administrative review under this Section it is determined that the information in an application is incomplete or additional information is required in order to complete the review, the Clerk shall notify the applicant, in writing, of the deficiency or additional information required. All missing and additional information identified in the notice must be delivered to the Township Clerk within 10 business days of the date of the notice. Upon written request of the applicant delivered to the Clerk prior to the expiration of said 10-day period, the Clerk may, in her sole discretion, grant an extension of time not exceeding 30 calendar days beyond the original 10-day period for delivery of missing and additional information. If all missing and additional information identified in the notice is not delivered to the Clerk within said time period, or any extension thereof: (1) processing of the application shall be discontinued; (2) the Clerk shall issue a written notice to the applicant indicating that the application is rejected on the grounds that it is incomplete and refunding 50% of the application review fee to the applicant; and (3) the applicant and application shall lose its place in the sequential numbering order. The applicant shall not be prohibited from submitting a new application for the same facility.

D. Upon receipt of the review reports to the Township Board described in this Section, the Clerk

shall provide such reports and the applicant's application materials to the Township Board for review and consideration of a provisional approval certificate.

SECTION 5: Provisional Approval Certificate.

A. After the Township Clerk has provided the review reports and the applicant's application materials as described in Section 4, together with any additional information the Clerk may provide regarding the application, the Township Board shall review such materials and any other additional materials it deems relevant, and decide whether to grant a provisional medical marihuana facility approval certificate in accordance with the procedures specified in this Section. The Township Board may, in its discretion, issue a provisional medical marihuana facility approval certificate to an applicant, but only if it determines, at a minimum, that the application submitted is sufficiently complete to make its decision and that the inspection of the premises, background checks, and all other information available to the Township verify that the applicant has made or will make improvements to the proposed marihuana facility location consistent with the application, the facility as proposed complies or will comply with applicable zoning and location requirements, and the applicant is prepared to operate the marihuana facility as set forth in the application, all in compliance with this Ordinance, the Zoning Ordinance, the MMFLA, the MMMA, and all other applicable State and Township ordinances, laws, rules, codes and regulations. In determining whether to grant a license to an applicant, the Township Board may also consider, in its discretion, the bases for denial of an application under Article II, Section 7 of this Ordinance, all of the factors and criteria set forth in Section 402(3) of the MMFLA, the information and any recommendations provided in the reports submitted to the Township Board by the Township Clerk, Treasurer, Building Official, Planning and Zoning Administrator, Fire Marshal, Engineer, Chief Ordinance Enforcement Official and law enforcement agency, and any other information provided to the Township Board from other sources that the Township Board finds to be reliable and relevant to its decision.

B. The Township Board shall consider a provisional medical marihuana facility approval certificate for the first three or five, as applicable, applications submitted to the Clerk for each type of marihuana facility, based on the sequential numbering of the applications, before considering later numbered applications for that type of facility, provided such applications have not been rejected by the Clerk under Section 4.C of this Article. If the Clerk rejects an application under Section 4.C of this Article or the Township Board denies a provisional approval certificate, the next application, if any, in the order of the sequential numbering of the applications may proceed and be considered by the Township Board as provided in this Ordinance.

C. As part of its granting of the provisional medical marihuana facility approval certificate, the Township Board may, in its discretion, include reasonable special conditions deemed necessary by the Board for purposes of preserving and protecting the public health, safety and welfare, providing an appropriate public benefit to the community which is roughly proportionate to any burden imposed upon the public by the facility, preserving the security, safety and aesthetics of the area in which the facility is proposed to be located, or protecting against any secondary impacts upon surrounding or nearby properties. Unless specified otherwise by the Township Board, all such conditions shall be part of and constitute a requirement of any subsequently issued Township license under this Ordinance and shall be complied with by the applicant and license holder in the course of operating the marihuana facility.

D. A provisional medical marihuana facility approval certificate means only that the applicant has submitted a valid and acceptable application for a marihuana facility license, and is provisionally

eligible to receive a marihuana facility license from the Township. The applicant shall not commence operations of a marihuana facility in the Township without obtaining the approval and issuance of a State license under the MMFLA and the approval and issuance of a Township license under this Ordinance.

E. A provisional medical marihuana facility approval certificate shall expire and be void on the earlier of the following two dates: (1) one year after the date the provisional approval certificate was granted by the Township Board; or (2) on the date that State approval is denied to the applicant. The Township Board may, in its sole and exclusive discretion, grant an extension of time not to exceed 180 days if an applicant submits a written request to the Township Board prior to the date of expiration under E(1), above, showing that its application with the State remains pending or has been approved, proving that the applicant has diligently pursued approval of the State license and all other required permits, approvals and licenses without delay or inaction on applicant's part, and showing good cause for the extension of time.

SECTION 6: Issuance of Township Marihuana Facility Operating License.

A. An applicant holding an unexpired provisional medical marihuana facility approval certificate issued pursuant to this Ordinance and for which the State Board has granted the appropriate marihuana facility state operating license shall provide proof of same to the Township Clerk.

B. Prior to issuance of a Township operating license, all marihuana facilities shall obtain all other required permits, approvals and licenses related to the construction and operation of the marihuana facility, including, without limitation, any zoning and development approvals and all construction, building and occupancy permits required by any applicable code or ordinance.

C. Township inspections of the proposed marihuana facility shall be required prior to issuance of the Township operating license. The inspections shall be undertaken by the Township Building Official, Fire Marshal and Planning and Zoning Administrator(s), together with any inspectors or other Township staff members they deem necessary and appropriate for purposes of inspecting the premises. The inspection shall occur after the premises are ready for operation, but prior to stocking of the facility with any medical marihuana, and prior to the opening of the facility to any patients or the public. The inspection is to verify that the marihuana facility is constructed and can be operated in accordance with the application submitted, in compliance with any special conditions imposed by the Township Board at the time of granting the provisional medical marihuana facility approval certificate, and also in compliance with the applicable requirements of this Ordinance, the Zoning Ordinance, the MMFLA, the MMMA, and all other applicable State and Township ordinances, laws, rules, codes and regulations.

D. The Township Clerk shall issue a Township license for an applicant holding an unexpired provisional medical marihuana facility approval certificate after: (1) receiving proof from the applicant and verifying that the State Board has granted the appropriate marihuana facility state operating license for the facility; (2) receiving proof from the applicant and verifying that all required permits, approvals and licenses have been obtained under subsection B, above; (3) receiving the verifications required under subsection C, above; and (4) verifying that the applicant is in compliance with any special conditions imposed by the Township Board at the time of granting the provisional approval certificate.

E. A Township license shall have a term that runs concurrent with the State license for the facility, unless revoked.

F. Maintaining a valid marihuana facility license issued by the state is a condition for the issuance and maintenance of the Township license issued under this Ordinance and the continued operation of any marihuana facility. Compliance with any special conditions imposed by the Township Board at the time of granting the provisional approval certificate is also a condition for the issuance and maintenance of the Township marihuana facility operating license issued under this Ordinance and the continued operation of any marihuana facility.

G. After issuance of all available Township licenses for a type of facility (see Article II, Section 1, above), any other applications for that type of license which remain pending at that time are deemed by operation of law under this Ordinance to be rejected due to the lack of an available license for that type of facility.

SECTION 7: Denial of Application.

A. An application that contains any false or misleading information shall be denied. An applicant is ineligible to receive a license under this Ordinance if any of the following circumstances exist regarding the applicant or a true party of interest of the applicant:

(1) Conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or conviction of a controlled substance-related felony within the past 10 years.

(2) Within the past 5 years, conviction of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or 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.

(3) The applicant has knowingly submitted an application for a license that contains false, misleading or fraudulent information, or who has intentionally omitted pertinent information on the application for a license.

(4) Is a member of the State Board or Township Board.

(5) The applicant fails to provide and maintain adequate premises liability and casualty insurance for its proposed marihuana facility.

(6) Holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

(7) The applicant, if an individual, has been a resident of this state for less than a continuous 2-year period immediately preceding the date of filing the application. This requirement does not apply after June 30, 2018.

(8) The applicant fails to meet other criteria established by the MMFLA or State-issued regulation or rule.

B. The Clerk shall notify, in writing, an applicant of the reason(s) for the Clerk's denial of an application for a license.

SECTION 8: License Forfeiture.

In the event that a marihuana facility does not commence operations within one year of issuance of a Township license, the license shall be deemed forfeited, the marihuana facility shall not commence operations, and the license shall not be eligible for renewal.

SECTION 9: License Renewal.

A. A valid Township license may be renewed on an annual basis by submission to the Township Clerk of a renewal application upon a form provided by the Township and payment of the annual license fee. An application to renew a marihuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

B. Prior to the issuance of a renewed marihuana facility license by the Township Clerk, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this Ordinance and all other applicable Township ordinances and State laws. The Clerk may deny renewal of a license for any of the reasons set forth in Section 12 of this Article. The Clerk shall notify an applicant of the reason(s) for the denial in writing.

SECTION 10: Transfer, Sale or Purchase of License.

A. A Township license for a marihuana facility is valid only for the person named thereon, the type of facility disclosed on the application for the license, and the location for which the license is issued. The licensees of a medical marihuana facility license are only those persons disclosed in the application or subsequently disclosed to the Township in accordance with this Ordinance.

B. Each operating license is exclusive to the licensee, and a licensee or any other person must submit an application for licensure with the Township Clerk before a license is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest in a license without prior application with and approval of the Township is grounds for suspension or revocation of the license.

SECTION 11: License as Revocable Privilege.

A license granted under this Ordinance is a revocable privilege granted by the Township and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license.

SECTION 12: Suspension or Revocation of License.

A. The Township Board may, after notice and hearing, suspend or revoke a license for any of the following reasons:

- (1) the applicant or licensee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this Ordinance or with any applicable state or local law or regulation;

(2) the applicant or licensee, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its license, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any proceedings held subsequent to the date of issuance of the license; or

(3) the marihuana facility has been operated in a manner that adversely affects the public health, safety or welfare.

B. Evidence to support a finding under this Section may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises of the marihuana facility or in the immediate area surrounding such facility, a continuing pattern of criminal conduct directly related to or arising from the operation of the marihuana facility, or an ongoing nuisance condition emanating from or caused by the marihuana facility. Criminal conduct shall be limited to the violation of a state law or regulation or Township ordinance.

SECTION 13: Appeals.

Any person aggrieved by a decision of the Clerk regarding the approval or denial of an application for issuance or renewal of a license may appeal the Clerk's decision to the Township Board of Trustees. Such appeal shall be taken by filing with the Clerk, within 21 days after notice of the Clerk's decision has been mailed to the applicant's last known address on the records of the Clerk, a written statement directed to the Township Board setting forth fully the grounds for the appeal. Following the filing of an appeal, the Township Board shall hold a hearing at which the applicant and any party whose interests are affected shall be provided an opportunity to be heard. The applicant shall be notified of the date and time of the hearing at least 10 days prior to the hearing. The Township Board may reverse or affirm, wholly or partly, or modify the decision of the Clerk. Any decision by the Township Board on an appeal shall be final for purposes of judicial review.

ARTICLE III. SPECIFIC MARIHUANA FACILITY REQUIREMENTS

SECTION 1: Grower License.

A. A grower may not hold more than one class of state-issued grower license on the same property or premises.

B. An applicant and each investor in a grower license cannot have an interest in a secure transporter or safety compliance facility.

C. A grower shall comply with all of the following:

(1) Until December 31, 2021, have as an active employee an individual who has a minimum of 2 years' experience as a registered primary caregiver.

(2) While holding a license as a grower, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(3) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, the state-issued rules, and the Marihuana

Tracking Act.

(4) Sell or transfer marihuana seeds or marihuana plants only to another grower by means of a secure transporter.

(5) Sell or transfer marihuana, other than seeds, only to a processor or provisioning center by means of a secure transporter.

SECTION 2: Processor License.

A. A processor license authorizes the purchase or transfer of marihuana only from a grower and the sale or transfer of marihuana-infused products or marihuana only to a provisioning center.

B. An applicant and each investor in a processor license cannot have an interest in a secure transporter or safety compliance facility.

C. A processor shall comply with all of the following:

(1) Until December 31, 2021, have as an active employee an individual who has a minimum of 2 years' experience as a registered primary caregiver.

(2) While holding a license as a processor, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(3) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, the state-issued rules, and the Marihuana Tracking Act.

(4) Transfer marihuana and marihuana-infused products only by means of a secure transporter.

SECTION 3: Secure Transporter License.

A. A secure transporter license authorizes the storage and transport of marihuana, marihuana-infused products and money associated with the purchase or sale of marihuana and marihuana-infused products between marihuana facilities at the request of a person with legal custody of the marihuana, marihuana-infused products, or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver who is not a licensee.

B. An applicant and each investor with an interest in a secure transporter license cannot have an interest in a grower, processor, provisioning center, or safety compliance facility and cannot be a registered qualifying patient or a registered primary caregiver.

C. A secure transporter which operates from a marihuana facility located within the Township shall secure a marihuana facility license from the Township. A State-licensed secure transporter which does not have a facility located in the Township, may, without securing a license from the Township operate on public streets and highways within the Township.

D. All secure transporting vehicles on the premises of the licensed facility shall not bear markings

or other indication that it is carrying or has the purpose of carrying marihuana or marihuana-infused products.

SECTION 4: Provisioning Center License.

A. A licensed provisioning center is authorized:

- (1) To purchase or transfer marihuana only from a grower;
- (2) To purchase or transfer marihuana and marihuana-infused products from a processor; and
- (3) Sell or transfer marihuana and marihuana-infused products only to registered qualifying patients and registered primary caregivers.

B. All transfers of marihuana and marihuana-infused products to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.

C. A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

D. An applicant and each investor in a provisioning center cannot have an interest in a secure transporter or safety compliance facility.

E. Regardless of any other provision of this Ordinance to the contrary, an applicant for a provisioning center shall have been a Michigan resident for at least two (2) years.

F. A provisioning center shall comply with all of the following:

- (1) Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.
- (2) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, the state-issued rules, and the Marihuana Tracking Act.
- (3) Before selling or transferring marihuana or marihuana-infused products to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver holds a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the State Board.
- (4) Not allow the sale, consumption, or use of alcohol or tobacco products on the licensed premises, both interior and exterior areas.
- (5) Not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

G. No marihuana plants shall be located in a provisioning center.

SECTION 5: Safety Compliance Facility License.

A. A licensed safety compliance facility is authorized to:

- (1) Receive marihuana from, test marihuana for, and return marihuana to a marihuana facility; and

(2) Receive from, test for, and return 2.5 ounces or less of marihuana to a registered primary caregiver.

B. A safety compliance facility must be accredited by an entity approved by the State Board no later than 1 year after the date the state license is issued or have previously provided drug testing services to the state or the state's court system and be a vendor in good standing in regard to those services. The Township Board may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

C. An applicant and each investor with any interest in a safety compliance facility cannot have an interest in a grower, secure transporter, processor, or provisioning center.

D. A safety compliance facility shall comply with all of the following:

(1) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.

(2) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.

(3) Perform tests that determine whether marihuana complies with the standards the State Board establishes for microbial and mycotoxin contents.

(4) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.

(5) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, the state-issued rules, and the Marihuana Tracking Act.

(6) Have a secured laboratory space that cannot be accessed by the general public.

(7) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.

ARTICLE IV. GENERAL REQUIREMENTS

SECTION 1: Compliance; Inspections.

A. A licensee shall strictly comply with the rules and emergency rules that may from time to time be promulgated by the Department and shall also strictly comply with this Ordinance, the Township Zoning Ordinance and all other all ordinances and codes adopted and enforced by the Township.

B. A licensee shall adopt and use the statewide monitoring system of inventory control and tracking authorized by the Marihuana Tracking Act so as to provide the capability for the licensee to comply with the State requirements applicable to the type of license held by the licensee.

C. A marihuana facility and all articles of property in the facility are subject to inspection, search

and examination at any time by a member of the Macomb County Sheriff's Department, other Township law enforcement agency, the Department of State Police and the Township Fire Marshal or his designee.

D. Any failure by a licensee to comply with Department rules or the provisions of this Ordinance is a violation of this Ordinance and any infraction or violation, however slight, is sufficient grounds for suspension and revocation of licensure under this Ordinance.

SECTION 2: Signage and Advertising.

All signage and advertising for a medical marihuana facility shall comply with all applicable provisions of Township ordinances, including without limitation the Township Zoning Ordinance. In addition, it shall be unlawful for any licensee to:

A. Use signage or advertising with the word "marihuana", "marijuana," "weed," "cannabis" or any other word or phrase commonly understood to refer to marihuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols;

B. Use signage or advertising with a picture or depiction of a marihuana plant or leaf or a symbol that is intended or commonly understood to represent a marihuana plant or leaf that is visible from outside the marihuana facility;

C. Use advertising material that is misleading, deceptive or false or that, as evidenced by the content of the advertising material or by the medium or the manner in which the advertising material is disseminated, is designed to appeal to minors; or

D. Advertise in a manner that is inconsistent with the medicinal use of medical marihuana or use advertisements that promote medical marihuana for recreational or any use other than for medicinal purposes.

SECTION 3: Warning Signs.

There shall be posted in a conspicuous location in each marihuana facility a legible sign stating that:

- “1. The possession, use, sale, distribution, growing, cultivation, and transporting of medical marihuana is a violation of federal law.
2. It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, medical marihuana.
3. No one under the age of eighteen (18) years is permitted on this premises.”

SECTION 4: Security requirements.

A. Security measures at all licensed premises shall comply with the requirements of all applicable rules and regulations promulgated by the Department.

B. A description of the security plan shall be submitted with the application for a Township operating license. The security system, shall be maintained in good working order and provide

twenty-four hours per day coverage. A separate security system is required for each facility.

C. The security plan must include, at a minimum, the following security measures:

(1) *Cameras.* The marihuana facility shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to marihuana or cash maintained at the marihuana facility, as well as all potential areas of ingress or egress to the facility. Cameras shall record the operations of the facility to an off-site location with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of sixty (60) days in a secure offsite location in the Township or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the Township and provided to the Macomb County Sheriff's Department or other Township law enforcement agency upon request, and such location shall be updated within seventy-two hours of any change of the location.

(2) *Use of Safe for Storage.* The marihuana facility shall install and use a safe for storage of any processed marihuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For medical marihuana-infused products that must be kept refrigerated or frozen, the facility may lock the refrigerated container or freezer in a manner authorized by the Township in place of use of a safe so long as the container is affixed to the building structure.

(3) *Alarm System.* The marihuana facility shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The security plan submitted to the Township shall identify the company monitoring the alarm, including contact information, and updated within seventy-two hours of any change of monitoring company.

(4) *Security Guard.* Each medical marihuana facility must have a security guard present during business hours, unless alternative security procedures have been proposed in the license application and approved by the Township.

SECTION 5: Visibility of Activities; Control of Emissions.

A. All activities of marihuana facilities, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, and storage of marihuana and marihuana-infused products shall be conducted indoors and out of public view.

B. No medical marihuana or paraphernalia shall be displayed or kept in a facility so as to be visible from the exterior of the marihuana facility building.

C. Sufficient equipment, ventilation and filtration systems, and other measures and means of preventing and precluding any smoke, odors, debris, dust, fluids and other substances from exiting a marihuana facility building must be installed, provided and maintained at all times in marihuana facilities. In the event that any odors, debris, dust, fluids or other substances exit a marihuana facility, the owner of the subject premises and the licensee shall be in violation of this Ordinance and shall be jointly and severally liable for such conditions and responsible for the immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

SECTION 6: Marihuana Cultivation.

A. Cultivation, generally.

- (1) No marihuana cultivation shall be conducted openly or publicly.
- (2) Marihuana cultivation shall comply with all applicable requirements of the laws and regulations of the Township and the State.
- (3) Marihuana cultivation shall not occur in detached outbuildings.
- (4) All marihuana cultivation shall take place in a locked and enclosed space within a building.

B. All marihuana products kept on premises where marihuana plants are cultivated shall be stored in a locked and enclosed space.

C. The use of any lighting for indoor marihuana cultivation shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or other fluorescent lighting. All high-intensity discharge (HID) lighting, including, but not limited to, mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, is prohibited.

D. No marihuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable outside of the walls of the licensed facility. Sufficient measures and means of preventing the escape of such odors and substances from the facility must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a facility, the licensee and owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee and owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

SECTION 7: Odor Control.

No licensee, person, tenant, occupant, invitee, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors outside of the marihuana facility.

SECTION 8: Lighting.

Light cast by fixtures inside any building used for marihuana cultivation, production or processing shall not be visible outside the building after 7:00 p.m. or sunset (whichever is earlier) or before 7:00 a.m., prevailing time.

SECTION 9: Separation of Licensed Premises.

A. A provisioning center, grower facility and processor facility are separate marihuana facilities requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each marihuana facility shall:

- (1) Have separate operations, ventilation, security, and fire suppression systems, and

separate access from a public area.

(2) Be divided within a building from floor to roof.

B. Unless higher performance is required by applicable laws or codes, there must be a minimum of a one-hour fire separation wall between a marijuana facility and any adjacent business.

SECTION 10: Reporting of Changes to Information.

Licensees shall report to the Township Clerk, in writing, any change in the information required under this Ordinance to be provided to the Township as part of an application or otherwise within ten (10) business days of the change. Failure to do so is grounds for suspension or revocation of the license.

SECTION 11: Prohibited Acts.

A. The consumption of alcohol beverages or tobacco products on a licensed premises is prohibited.

B. A licensee holding a provisioning center license, or any agent, manager or employee thereof, shall not:

(1) sell, give, dispense or otherwise distribute medical marijuana or medical marijuana paraphernalia from any outdoor location; or

(2) sell, give, dispense or otherwise distribute to any registered patient or registered primary caregiver who is not a licensee more usable form of medical marijuana (including the useable marijuana equivalent of medical marijuana-infused products) within any seven-day period of time than they are allowed by the MMMA to possess.

C. A licensee, or any agent, manager or employee of a licensee, shall not distribute marijuana or marijuana-infused products to a person free of charge.

D. The consumption of marijuana or retail marijuana products on the licensed premises is prohibited.

E. Marijuana or marijuana products shall not be sold at a licensed provisioning center at any time other than between the hours of 9:00 a.m. and 9:00 p.m. daily.

SECTION 12: Reports of Crime.

Reports of all criminal activities or attempts of violation of any law at a marijuana facility or related thereto shall be reported to the Macomb County Sheriff's Department or other Township law enforcement agency within twelve hours of occurrence, or its discovery, whichever is sooner.

SECTION 13: Inspection of Licensed Premises.

A. During all business hours and other times when a licensed facility is occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by the Macomb County Sheriff's Department and all other Township departments for the purpose of investigating and determining compliance with the provisions of this Ordinance

and any other applicable state and local laws or regulations.

B. Application for a marihuana facility license or operation of a licensed marihuana facility, or leasing property to a marihuana facility, constitutes consent by the applicant, and all owners, managers, and employees of the facility, and the owner of the property to permit the Township and Macomb County Sheriff's Department to conduct routine examinations and inspections of the marihuana facility to ensure compliance with the license issued under this Ordinance.

SECTION 14: Financial Statements.

Within 30 days after the end of the State fiscal year, each licensee shall transmit to the Township Clerk financial statements of the licensee's total operations. The financial statements shall have been prepared and signed by a certified public accountant licensed in this State. The financial statements shall be in a manner and form prescribed by the Board.

SECTION 15: Insurance Requirements.

A licensee shall at all times maintain in full force and effect for duration of the license, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least A-. A licensee shall provide proof of insurance to the Township Clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. The policy shall name Lenox Township and its officials and employees as additional insureds to the limits required by this section. A licensee or its insurance broker shall notify the Township of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. In the event of expiration or cancellation of coverage, the licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the Township Clerk within 5 business days.

SECTION 16: Additional Requirements.

A. No marihuana facility may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marihuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.

B. The Township may require the marihuana facility to obtain verification from a qualified industrial hygienist that the manner in which the facility is producing medical marihuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.

SECTION 17: Other Laws Remain Applicable; Conflicts with State Laws.

To the extent the State adopts in the future any additional or stricter law, rule, or regulation governing marihuana facilities, the additional or stricter regulation shall control the establishment or operation of any marihuana facility in the Township. Compliance with any applicable state law, rule or regulation shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with any applicable state law, rule or regulation shall be grounds for revocation or suspension of any license issued under this Ordinance.

SECTION 18: Grant of Administrative Authority.

The Township Clerk is granted the power and duty to fully and effectively implement and administer the license application process and issuance of provisional approval certificates and Township licenses issued under this Ordinance. The Township Clerk, after consultation with other Township departments, may promulgate such rules as necessary to implement and administer this Ordinance.

SECTION 19: Violations and Penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Ordinance, any person, including, but not limited to, any licensee, manager or employee of a marijuana facility, or any customer of such facility, who violates any of the provisions of this Ordinance, shall be responsible for a municipal civil infraction that is subject to the penalties and relief specified or referenced in Part 7, "Administration/Enforcement," Ordinance 1, "Municipal Civil Infractions," of the Lenox Township Book of Ordinances."

ARTICLE V. SEVERABILITY

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated, and such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

ARTICLE VI. REPEALER

All ordinances, parts of ordinances, or sections of the Lenox Township Book of Ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

ARTICLE VII. SAVINGS

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

ARTICLE VIII. PUBLICATION AND EFFECTIVE DATE

This Ordinance, or a summary hereof, shall be published within 30 days of adoption in a newspaper of general circulation in Lenox Township and shall become effective on February 12, 2018.

Enactment

This ordinance is declared to have been enacted by the Township Board of Trustees of the Township of Lenox at a meeting called and held on the 4th day of December, 2017, and ordered to be given publication in the manner prescribed by law.

Ayes: Trombley, Honold and Clifford

Nays: Kandell and Gurley

Abstentions: None

Absent: None

**AMENDMENT TO THE LENOX TOWNSHIP ZONING ORDINANCE
(TEXT AMENDMENT)**

AN ORDINANCE TO AMEND THE LENOX TOWNSHIP ZONING ORDINANCE TO ALLOW FOR MEDICAL MARIHUANA FACILITIES AS PERMITTED OR SPECIAL LAND USES IN LENOX TOWNSHIP AND TO PROVIDE ZONING REGULATIONS AND CONDITIONS RELATIVE TO SUCH USES.

LENOX TOWNSHIP ORDAINS:

ARTICLE 1. AMENDMENT

Amend Article 3 "General Provisions," Section 337 "Medical Marihuana Uses," of the Lenox Township Zoning Ordinance, to add a new subsection 337.1.f and to amend subsection 337.2 to read as follows:

SECTION 337. MEDICAL MARIHUANA USES

1. Intent.

a.- e. [*Unchanged*].

f. In 2016, the Michigan Legislature enacted the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and the Marihuana Tracking Act, MCL 333.27901 et seq. In addition to the intent and purposes stated above, the provisions in this Section of the Zoning Ordinance, as well as those in other sections of this Zoning Ordinance relating to the subject of medical marihuana, are adopted for the purposes and with the intent set forth in Lenox Township Medical Marihuana Facilities Licensing Ordinance (being Part 25, Ordinance 3 of the Lenox Township Book of Ordinances) and Sections 1 through 3 of said Ordinance are incorporated herein.

2. Medical Marihuana Facilities.

a. *All types of medical marihuana facilities* shall be subject to the following minimum conditions:

- (a) All operations must be completely enclosed within a building;
- (b) Issuance of a license for the medical marihuana facility by the State of Michigan;
- (c) Issuance of a license for the medical marihuana facility by the Township;
- (d) Compliance with all provisions of the Medical Marihuana Facilities Licensing Act 281 of 2016, as it may be amended from time to time;
- (e) Compliance with all provisions of the Lenox Township Medical Marihuana Facilities Licensing Ordinance (being Part 25, Ordinance 3 of the Lenox Township Book of Ordinances), as it may be amended from time to time;
- (f) Compliance with all other relevant provisions of the Lenox Township Zoning Ordinance, as it may be amended from time to time;
- (g) No marihuana facility operating or purporting to operate prior to the effective date of the amendment to the Township Zoning Ordinance adding this subsection 337.2 shall be deemed to have been a legally existing use nor shall the operation of such marihuana facility be deemed a legal nonconforming use under this Zoning Ordinance; and

- (h) Discontinuation of a State-issued or Township-issued medical marihuana facility license shall constitute prima facie evidence that an otherwise lawful nonconforming medical marihuana facility use, structure or condition on the premises has been discontinued.
- b. *Medical marihuana provisioning centers* shall also be subject to all of the following minimum conditions:
 - (a) Medical marihuana provisioning centers shall not operate between the hours of 9:00 PM and 9:00 AM;
 - (b) Drive-through windows and outdoor services are not allowed;
 - (c) Outdoor seating is not allowed;
 - (d) The property on which the facility is located must abut and have access to a major thoroughfare, as defined by the Macomb County Department of Roads;
 - (e) The medical marihuana provisioning center must be connected to municipal water and sewer;
 - (f) The medical marihuana provisioning center shall be located no closer than 1000 feet* to any school and no closer than 500 feet* to any place of worship, park, playground, public library, or residentially zoned or occupied property; and
 - (g) The medical marihuana provisioning center shall be located no closer than 500 feet* to any other medical marihuana facility.

*The distances set forth in subsections (f) and (g), above, shall be measured as the shortest straight-line distance between the property line of the parcel on which the marihuana facility is located that is nearest to the listed use and the nearest property line of the parcel on which the listed use is located.

- c. *Medical marihuana grow facilities and medical marihuana processing facilities* shall also be subject to all of the following minimum conditions:
 - (a) The property on which the facility is located must abut and have access to a major thoroughfare, as defined by the Macomb County Department of Roads;
 - (b) The facility must be connected to municipal water and sewer; and
 - (c) The facility shall be located no closer than 1000 feet* to any school and no closer than 500 feet* to any place of worship, park, playground, public library, or residentially zoned or occupied property.

*The distances set forth in subsection (c), above, shall be measured as the shortest straight-line distance between the property line of the parcel on which the marihuana facility is located that is nearest to the listed use and the nearest property line of the parcel on which the listed use is located.

ARTICLE 2. AMENDMENT

Amend Article 11, "OS – Office Service District," Section 1100, "Permitted Uses," of the Lenox Township Zoning Ordinance, to add a new subsection H to read as follows:

SECTION 1100. PERMITTED USES.

A.-G. [*Unchanged*].

H. Medical marihuana safety compliance facility (Subject to SECTION 337).

ARTICLE 3. AMENDMENT

Amend Article 12, "CC – Community Commercial District," Section 1202, "Special Land Uses," of the Lenox Township Zoning Ordinance, to add a new subsection B to read as follows:

SECTION 1202. SPECIAL LAND USES.

- A. [Unchanged].
- B. Medical marihuana provisioning center (SECTION 337 and 1850).

ARTICLE 4. AMENDMENT

Amend Article 13, "GC – General Commercial District," Section 1302, "Special Land Uses," of the Lenox Township Zoning Ordinance, to add a new subsection F to read as follows:

SECTION 1302. SPECIAL LAND USES.

- A.-D. [Unchanged].
- F. Medical marihuana provisioning center (SECTION 337 and 1850).

ARTICLE 5. AMENDMENT

Amend Article 14, "IR – Restricted Industrial District," Section 1400 "Permitted Uses" and Section 1402 "Special Land Uses," of the Lenox Township Zoning Ordinance, to add new subsections 1400.R, 1400.S, 1402.J and 1402.K to read as follows:

SECTION 1400. PERMITTED USES.

- A.-Q. [Unchanged].
- R. Medical marihuana safety compliance facility (Subject to SECTION 337).
- S. Medical marihuana secured transporter facility (Subject to SECTION 337).

SECTION 1402. SPECIAL LAND USES.

- A.-I. [Unchanged].
- J. Medical marihuana grow facility (SECTION 337 and 1850).
- K. Medical marihuana processing facility (SECTION 337 and 1850).

ARTICLE 6. AMENDMENT

Amend Article 15, "IC – Controlled Industrial District," Section 1500 "Permitted Uses" and Section 1502 "Special Land Uses," of the Lenox Township Zoning Ordinance, to add new subsections 1500.F, 1500.G, 1502.I and 1502.J to read as follows:

SECTION 1500. PERMITTED USES.

- A.-E. [Unchanged].
- F. Medical marihuana safety compliance facility (Subject to SECTION 337).
- G. Medical marihuana secured transporter facility (Subject to SECTION 337).

SECTION 1502. SPECIAL LAND USES.

A.-H. [*Unchanged*].

I. Medical marihuana grow facility (SECTION 337 and 1850).

J. Medical marihuana processing facility (SECTION 337 and 1850).

ARTICLE 7. AMENDMENT

Amend Article 18, "Special Land Uses," of the Lenox Township Zoning Ordinance, to add Section 1850, "Medical Marihuana Facilities," to read as follows:

SECTION 1850. MEDICAL MARIHUANA FACILITIES.

Medical marihuana grow facilities, medical marihuana processing facilities and medical marihuana provisioning centers shall be subject to all of the minimum conditions and requirements set forth in Section 337.

ARTICLE 8. AMENDMENT

Amend Article 24, "Definitions," of the Lenox Township Zoning Ordinance, to add the definitions of the following terms in alphabetical order:

A. "Marihuana" means that term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106; 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.

B. "Marihuana facility" and "medical marihuana facility" mean an enterprise at a specific location at which a licensee is licensed to operate under the Township Ordinances and the Medical Marihuana Facilities Licensing Act, 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 registered primary caregiver.

C. "Marihuana plant" means any plant of the species *Cannabis sativa* L.

D. "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 et seq.

E. "Medical marihuana grow facility" means a marihuana facility at which a commercial entity located in Michigan, that is licensed as a grower of marihuana by the State and Township, cultivates, dries, trims, or cures and packages marihuana for sale only to a processor or provisioning center.

F. "Medical marihuana processing facility" means a marihuana facility at which a commercial entity, that is licensed to operate a processing facility by the State and Township, purchases marihuana from a medical marihuana grower and extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form only to a medical marihuana provisioning center.

G. "Medical marihuana provisioning center" means a marihuana facility at which a commercial entity, that is licensed to operate a provisioning center by the State and Township, purchases marihuana from a medical marihuana grower or processor and sells, supplies, or provides marihuana only to registered qualifying patients, directly or through the patients' registered primary caregivers. Medical marihuana provisioning center includes any commercial property where marihuana is sold at retail only to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a registered qualifying patient connected to the caregiver through the Department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this Ordinance.

H. "Medical marihuana safety compliance facility" means a marihuana facility at which a commercial entity, that is licensed to operate a safety compliance facility by the State and Township, 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.

I. "Medical marihuana secure transporter facility" means a marihuana facility at which a commercial entity, that is licensed as a secure transporter by the State and Township, stores marihuana for marihuana facilities and from which the commercial entity provides transportation services of marihuana between marihuana facilities for a fee.

J. "Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act.

K. "Registered qualifying patient" means a qualifying patient who has been issued a current registry identification card under the Michigan Medical Marihuana Act or a visiting qualifying patient as that term is defined in the Michigan Medical Marihuana Act.

ARTICLE 9. SEVERABILITY

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated, and such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

ARTICLE 10. REPEALER

All ordinances, parts of ordinances, or sections of the Lenox Township Book of Ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

ARTICLE 11. SAVINGS

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

