

**AN ORDINANCE TO AMEND THE EMMETT CHARTER TOWNSHIP CODE OF ORDINANCES TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES; TO ESTABLISH PENALTIES FOR VIOLATION HEREOF; AND TO OTHERWISE PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE**

ORDINANCE NO. 1 of 2018

**THE CHARTER TOWNSHIP OF EMMETT ORDAINS:**

SECTION 1. NEW ARTICLE CREATED. Article IV of Chapter 18 of the Emmett Charter Township Code is hereby created to read as follows:

***ARTICLE IV. MEDICAL MARIJUANA FACILITIES***

***Section 18-201. Purpose.***

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

***Section 18-202. Definitions.***

*For the purposes of this article:*

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

- B. *Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.*
- C. *“Board” means the Emmett Charter Township Board of Trustees.*
- D. *Any term defined by the Marihuana Tracking Act, MCL 333.27901, et seq., shall have the definition given in the Marihuana Tracking Act.*
- E. *"Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.*
- F. *“Licensee” means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq.*
- G. *"Marijuana" or “marihuana" means that term as defined in the Public Health Code, MCL 333.1101, et seq.; the Michigan Medical Marihuana Act, MCL 333.26421, et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq.; and the Marihuana Tracking Act, MCL 333.27901, et seq.*
- H. *“Marijuana facility” means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421, et seq.*
- I. *"Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.*
- J. *"Processor" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.*
- K. *"Provisioning center" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421, et seq., is not a provisioning center for purposes of this article.*

- L. *"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.*
- M. *"Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.*
- N. *"Township" means Emmett Charter Township, Calhoun County, Michigan.*

**Section 18-203. Authorization of Facilities and Fee.**

- A. *The maximum number of each type of marijuana facility allowed in Emmett Charter Township shall be as follows:*

<u>Facility</u>	<u>Number</u>
<i>Grower</i>	<i>unlimited</i>
<i>Processor</i>	<i>unlimited</i>
<i>Secure transporter</i>	<i>unlimited</i>
<i>Provisioning center</i>	<i>unlimited</i>
<i>Safety compliance facility</i>	<i>unlimited</i>

- B. *At least every 3 years after adoption of this article, the board shall review the number of each type of marijuana facility existing in the township and shall determine whether a limit on the number of facilities should be adopted, in which event this article may be amended. The review and its findings shall be recorded in the minutes of the relevant meeting of the board.*
- C. *A nonrefundable fee shall be paid by each marijuana facility licensed under this article in an annual amount of not more than \$5,000.00 as set by resolution of Emmett Charter Township board.*

**Section 18-204. Requirements and Procedure for Issuing License.**

- A. *No person shall operate a marijuana facility in the township without a valid marijuana facility license issued by Emmett Charter Township pursuant to the provisions of this article.*
- B. *Every applicant for a license to operate a marijuana facility shall file an application in the township clerk's office upon a form provided by Emmett Charter Township.*
- C. *Every applicant for a license to operate a marijuana facility shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq.*
- D. *Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the township clerk shall receive the application and assign*

*it a sequential application number by facility type based on the date and time of receipt. The supervisor shall act to approve or deny an application not later than thirty 30 days from the date the application was accepted. If approved, the clerk shall issue the applicant a provisional license.*

- E. A provisional license means only that the applicant has submitted a valid application for a marijuana facility license, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable articles and regulations of Emmett Charter Township. A provisional license will lapse and be void if such permits and approvals are not diligently pursued to completion.*
- F. Within fourteen 30 days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the supervisor shall approve or deny the marijuana facility license. The supervisor shall issue marijuana facility licenses in order of the sequential application number previously assigned.*
- G. Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility license under this article and continued operation of any marijuana facility.*
- H. A marijuana facility license issued under this article is not transferable.*

***Section 18-205. License Renewal.***

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

***Section 18-206. Applicability.***

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

***Section 18-207. Penalties and Enforcement.***

- A. Any person who violates any of the provisions of this article shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than \$500, plus costs. Each day a violation of this article continues to exist constitutes a separate violation. A violator of this article shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.*

- B. *A violation of this article is deemed to be a nuisance per se. In addition to any other remedy available at law, Emmett Charter Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this article.*
- C. *This article shall be enforced and administered by the township supervisor or such other township official as may be designated from time to time by resolution of the board.*

SECTION 2. SEVERABILITY.

In the event that any one or more sections, provisions, phrases or words of this article shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Article.

SECTION 3. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its publication, or publication of a summary, which publication shall occur in a newspaper of general circulation in the Township within thirty (30) days after adoption.

This Article is hereby declared to have been passed and adopted by Emmett Charter Township, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this 4th day of January, 2018.

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Timothy Hill, Supervisor

ATTEST:

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Tracy Myers-Malone, Clerk

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