

An Ordinance to Authorize and Regulate The establishment of Medical Marijuana Facilities.

The Charter Township of Oscoda ordains:

Section 6.32 of the Charter Township of Oscoda (Ordinance 165) is hereby replaced in its entirety to read as follows;

Section 6.32 Purpose and Intent.

- A. It is the intent of this ordinance to authorize the establishment of certain types of medical marijuana facilities in the Township of Oscoda and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marijuana facility in Oscoda Township through imposition of an annual, nonrefundable fee of not more than \$5000 on EACH medical marijuana facility licensee. Authority for the enactment of these provisions are set forth in the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacturing, 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 ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq.; which makes it unlawful to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

Section 6.32.1. Definitions

For the purpose of this ordinance:

- 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 Marijuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marijuana Facilities Licensing Act.
- C. Any term defined by the Marijuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marijuana Tracking Act.
- D. "Grower" means a licensee that is a commercial entity located in the state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.
- E. "Licensee" means a person holding a state operating license issued under the Medical Marijuana Facilities Licensing Act MCL 333.27101 et seq.
- F. "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq., the Michigan Medical Marijuana Act, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marijuana Tracking Act, MCL 333.27901 et seq.

- G. "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 is included in the Michigan Medical Marihuana Act MCL 333.26421 et seq.
- H. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- I. "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 package form to a provisioning center.
- J. "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 patient's registered primary caregivers. Provisioning centers include 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, in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purpose of this article.
- K. "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 (THC) and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- L. "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.

Section 6.32.2. Authorization of Facilities and Fee.

- A. The maximum number of each type of marihuana facilities in the Township of Oscoda will be set at this time but will be reviewed at the discretion of the Oscoda Township Board of Trustee's. The review and its findings shall be recorded in the minutes of the relevant meeting of the Oscoda Township Board of Trustees.

<u>Facility</u>	<u>Number</u>
Grower	Two (2)
<u>Zoning Districts</u>	I- Industrial WI – Wurtsmith Industrial AG- Agricultural
Processor	Two (2)
<u>Zoning Districts</u>	I- Industrial WI – Wurtsmith Industrial WB-3 – Wurtsmith Business District

Secured Transporter	Two (2)
<u>Zoning Districts</u>	I- Industrial WI – Wurtsmith Industrial WB-3 – Wurtsmith Business District B-2 – General Business District
Provisioning Center	Two (2)
<u>Zoning Districts</u>	B-2 - General Business District WB-3 – Wurtsmith Business District
Safety Compliance Facility	Two (2)
	B-2 - General Business District WB-3 – Wurtsmith Business District I – Industrial WI – Wurtsmith Industrial

- B. A non-refundable fee shall be paid by each marihuana facility licensed under this ordinance in an annual amount of not more than \$5000 as set by resolution #----- of Oscoda Township Board of Trustee's.

Section 6.32.3. Requirements and Procedure for Issuing Permits

- A. No person shall operate a marihuana facility in the Township of Oscoda without a valid marihuana facility permit issued by the Township of Oscoda pursuant to the provisions of this ordinance.
- B. Every applicant for a permit to operate a marihuana facility shall file an application in the Oscoda Township Zoning office upon a form provided by the Township of Oscoda.
- C. Every applicant for a permit to operate a marihuana 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 Zoning Administrator shall accept the application and assign it a sequential application number by facility type based on date and time of acceptance. The Planning Commission of Township of Oscoda shall act to approve or deny an application after review of the application and a site plan at a regularly scheduled meeting of said commission. If approved the applicant shall be issued a provisional *permit*.
- E. A provisional permit means only that the applicant has submitted a valid application for a marihuana facility license, and the applicant shall not locate or operate a marihuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the Township of Oscoda. A provisional permit will lapse and be void if such permits and approvals are not diligently pursued to completion.
- F. Within 30 days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the permit fee, the Zoning Administrator/Planning

Commission of Oscoda Township shall approve or deny the marihuana facility permit. The Zoning Administrator shall issue marihuana facility permit in order of the sequential application number previously assigned.

- G. Maintaining a valid marihuana facility license issued by the State is a condition for the issuance and maintenance of a marihuana facility permit under this ordinance and continued operations of any marihuana facility.
- H. A marihuana facility permit issued under this ordinance is not transferable.

Section 6.32.4. Permit Renewal

- A. A marihuana facility permit shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid marihuana facility permit may be renewed on an annual basis by submitting a renewal application upon a form provided by the Zoning Department of Oscoda and payment of the annual permit fee. Applications to renew a marihuana facility permit shall be filed at least thirty [30] days prior to the date of its expiration.

Section 6.32.5. Applicability

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

Section 6.32.6. Penalties and Enforcement

- A. Any person who violated any of the provisions of this Ordinance 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 Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan Law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the Township of Oscoda may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the Zoning Administrator, Code Compliance Officer, Oscoda Township Police Department, or such other Oscoda Township official as may be designated from time to time by resolution of the Oscoda Township Board of Trustees.

Section 6.32.7. Severability

In the event that any one or more sections, provisions, phrases or words of this Ordinance 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 Ordinance.

Section 6.32.8. Effective Date

This Ordinance shall take effect 12/15/17 in accordance with law.

Definitions

- “Grower” means a licensee that is a commercial entity located in the state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center
- “Licensee” means a person holding a state operating license under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- “Marijuana” or “Marihuana” means that the term as defined in the Public Health Code. MCL 333.1101 et seq.; the Medical Marihuana Act MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracing MCL 333.27901 et seq.
- “Marihuana Facility” or “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 marihuana grower, marijuana provisioning center, marijuana 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.
- “Outdoor production” means growing marijuana in an expanse of open or cleared ground or in a greenhouse, that does not utilize any artificial lighting, including but not limited to electrical lighting sources.
- “Processor” means a licensee that is a commercial entity located in this state that purchases marijuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in package form to a provisioning center.
- “Provisioning Center” means a licensee that is a commercial entity located in this state 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 centers include any commercial property where marihuana is sold at retail to registered qualifying 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, 333.26421 et, seq., is not a provisioning center for purpose of this article.
- “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.
- “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.

Zoning Districts/License Type

- A. A marihuana grower, licensed under the State of Michigan’s Medical Marihuana Licensing Act MCL 333.27101 et seq. Product can be grown only in Agricultural or Industrial Districts, AG-Agricultural, WI - Wurtsmith Industrial, and I -Industrial.
 - B. A marihuana processor, licensed under the State of Michigan’s Marihuana Licensing Act MCL 333.27101 et.seq. Processing can be done only in the I- Industrial and WI- Wurtsmith Industrial Districts.
- A marihuana provisioning center, licensed under the State of Michigan’s Medical Marihuana Licensing Act MCL 333.27101 et. seq. Product can be sold only in the B-1- Central Business District, B-2- General Business District and WB3-Wurtsmith Business District.

- A medical Marihuana Secure transporter licensed under the State of Michigan's Medical Marihuana Licensing Act MCL 333.27101 et. seq. A secure transporter's facility shall be located only in the I-Industrial and W-I Wurtsmith Industrial Districts.
- A licensed medical marihuana Safety compliance facility licensed under the State of Michigan's Medical Licensing Act MCL 333.27101 et. seq. A Safety compliance facility shall be located in the I-Industrial, WI-Wurtsmith Industrial, WB3-Wurtsmith Business District, and the B-2 General Business District.

Special Land Use Permit Standards

1. **A marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, and marihuana safety compliance facility, in accordance with the provisions of State law, may be permitted through the issuance of a special land use permit pursuant to Article IX to the Oscoda Township Ordinance 165, in the specified zones, provided that:**
 - A. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law may not be permitted by the Township of Oscoda. In the event that a court with jurisdiction declares some or all of this article invalid, then the Township of Oscoda shall suspend the acceptance of applications for special land use permits pending the resolutions of the legal issue in question.
 - B. At the time of application for the special land use permit, the marihuana facility must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan including but not limited to 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.; and all other applicable rules promulgated by the state of Michigan.
 - C. At the time of application for a special land use permit (SLUP), the marihuana facility must have the Township of Oscoda permit concurrently in process with the special land use permit and site plan approval, and then must be at all times in compliance with Ordinance 165 of the Township of Oscoda.
 - D. A marihuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, may NOT be permitted as a Home Business or accessory use nor may they include accessory uses, except as otherwise provided in this ordinance.
 - E. Signage requirement for marihuana facilities, unless otherwise specified, are as provided in Article III, of the Oscoda Township Ordinance 165.

2) **Marihuana growers and marihuana processors shall be subject to the standards as listed in 4.22 Industrial (I) and 4.23 Agricultural (AG)**

- A. **Lighting** *Lighting shall be regulated as follows:*
 - Light cast by light fixtures inside any building shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day. Outdoor marihuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
- B. **Odor** **As used in this subsection, building means the building, or portion thereof, used for marihuana production or marihuana processing.**
 - The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

- Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - An alternative odor control system is permitted if approved by the State of Michigan.
- C. If used, security cameras shall be directed to record only the subject property and may not be directed to public rights-of-ways as applicable, except as required to comply with licensing requirements of the State of Michigan.

3) Provisioning centers shall be subject to the following standards:

- **Hours** as regulated by the State of Michigan.
- **Indoor activities** All activities of a provisioning center, including all transfers of marihuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or a drive-thru window service.
- **Other Activities** Marihuana and tobacco products shall not be smoked, ingested, or otherwise be consumed in the building space occupied by the provisioning center.
- **Physical Appearance** The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
- **Odor** As used in this subsection, building means the building, or portion thereof, used for a provisioning center.
- The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
- Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
- An alternative odor control system is permitted if approved by the State of Michigan.

4) Marihuana Safety compliance facility shall be subject to the following standards:

- A. A marihuana safety compliance facility shall be subject to special regulations and standards as defined under *Medical Laboratories and medical Testing facilities* in Oscoda Township Ordinance 165.
- B. All activities of a marihuana safety compliance facility, including all transfers of marihuana, shall be conducted within the structure and out of public view.

5) Marihuana Secure transporter shall be subject to the following standards:

- A. A marihuana secure transporter shall be subject to the special regulations and standards applicable to [*transportation and warehousing*] uses as defined in the Oscoda Township Ordinance 165 and the following standards.
- B. Any buildings or structures used for the containment of stored materials shall be located no closer than 20ft from any property line. (or per the standards of I-Industrial, WI-Wurtsmith Industrial)

6) Nonconformities

- A. No marihuana facilities operating or purporting to operate prior to December 15th 2017, shall be deemed to have been a legally existing use nor shall the operations of such marihuana facility be deemed a legal nonconforming use under Oscoda Township Ordinance 165.

- B.** A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any amendment thereto.
- C.** Discontinuation of a state medical marihuana facility license shall constitute prima facie evidence that a nonconforming use has been discontinued.

DRAFT