

**Charter Township of Garfield
Grand Traverse County, Michigan**

ORDINANCE NO. 76

AN ORDINANCE TO LICENSE MARIJUANA SAFETY COMPLIANCE FACILITIES

THE CHARTER TOWNSHIP OF GARFIELD ORDAINS:

Section 1. Intent

The intent of this Ordinance is to exercise the Charter Township of Garfield's authority to permit marijuana safety compliance facilities while prohibiting other marijuana facilities within the Township as authorized under the Medical Marijuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101 et seq., and the Michigan Regulation & Taxation of Marijuana Act (MRTMA), Public Act 1 of 2018, MCL 333.27951 et seq.

Section 2. Safety Compliance Facilities Permitted

Pursuant to the authority conferred under the Medical Marijuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101 et seq., and the Michigan Regulation & Taxation of Marijuana Act (MRTMA), Public Act 1 of 2018, MCL 333.27951 et seq., the Charter Township of Garfield hereby permits safety compliance facilities. All other marijuana facilities are prohibited.

Section 3. Definitions

Terms contained in the MMFLA and the MRTMA apply to the terms found herein. This Ordinance contains some words and phrases that are defined in the MMFLA & the MRTMA. As used in this Ordinance, they have the same meaning as provided in the MMFLA & MRTMA, unless the term is otherwise defined in this Ordinance, or the context requires a different meaning.

The following terms shall have the definitions indicated for the purposes of this Ordinance:

- A. "Applicant" means a person who applies for a License under this Ordinance.
- B. "Facility" means safety compliance facility as referenced in the MMFLA and MRTMA.
- C. "Licensee" means a person or entity issued a safety compliance facility license under this Ordinance or by the State.
- D. "License" means a required license issued pursuant to this Ordinance that allows the licensee to operate a safety compliance facility within the Township.

Section 4. Licensees Authorized to Operate within the Township

- A. Pursuant to the MMFLA & MRTMA, the Charter Township of Garfield authorizes the operation of safety compliance facilities in the Township provided they each possess a state operating license issued under the MMFLA, MRTMA, or both, and they comply with the

additional requirements of this Ordinance. No more than three (3) licenses shall be granted by the Township at any one time.

- B. Pursuant to the MMFLA & MRTMA, the Charter Township of Garfield does not authorize operation in the Township of the following:
 - a. Grower
 - b. Processor
 - c. Provisioning Center
 - d. Retailer
 - e. Microbusiness
 - f. Secure Transporter
 - g. Designed Consumption Establishment
 - h. Marijuana Event Organizer
 - i. Temporary Marijuana Event

Section 5. License Requirements

- A. No person shall operate a safety compliance facility in the Charter Township of Garfield without first obtaining a license to do so as required by this Ordinance.
- B. A separate license is required for each facility operated.
- C. The license requirement in this Ordinance shall be in addition to any other requirements imposed by any other state or local law.
- D. A license issued under this Ordinance shall be valid for one (1) year after the date of issuance. The expiration date of the state operating license that corresponds to a facility license issued under this Ordinance constitutes the expiration date of the facility license. Expiration of the Township license does not affect a person's licensure under MMFLA or MRTMA but does affect the person's ability to operate a facility in the Township.
- E. This Ordinance does not apply to, or regulate, any patient or caregiver conduct protected by the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 et seq. (MMMA).

Section 6. General Provisions

- A. A license is a revocable privilege and not a right. Nothing in this Ordinance may be held or construed to grant a vested right, license, permit, or privilege to continue operations within the Township.
- B. A license issued under this Ordinance is valid only for the applicant named on the license and the location of the facility. Each license is personal and exclusive to the licensee.
- C. The revocation, suspension, and placement of restrictions by the State on a state operating license apply equally to a license issued by the Township.
- D. An applicant or licensee has a continuing duty to provide information requested by the Township and to cooperate in any investigation, inquiry, or hearing conducted by the Township.
- E. Acceptance of a license from the Township under this Ordinance constitutes consent by the licensee for the Township to conduct inspections of the licensed premises to ensure compliance with this Ordinance.

- F. The issuance of any license pursuant to this Ordinance does not create an exception, defense, or immunity to any person with regard to any potential criminal or civil liability the person may have under any federal or state law or township ordinance.
- G. No license may be sold, assigned, mortgaged, or otherwise transferred.
- H. Pursuant to Section 9.3(c) of the MRTMA, the property where a marijuana safety compliance facility will be located cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. The distance shall be measured from property line to property line.

Section 7. Application Requirements

- A. An application for a facility license shall be submitted to the Township in a form provided by the Township. Any application that does not include all information requested by the application form or is not supported by the materials required by this Ordinance or the license application shall be denied and/or rejected.
- B. The application may require information that will enable the Township to make a fair determination as to the applicant's fitness and ability to comply with the provisions of this Ordinance and all other applicable laws, ordinances and regulations, including but not limited to:
 - a. The name and address of the facility and any other contact information requested on the application form.
 - b. The name and address of all owners (entities and individuals) of the real property where the facility is located.
 - c. A copy of official paperwork issued by the State indicating that the applicant has successfully completed the prequalification step of the application for a state operating license.
 - d. Proof of applicant's ownership, legal possession, or otherwise legal interest in the premises.
 - e. Proof that the appropriate zoning approval has been received.
 - f. Any information and materials required by Township Policy.
 - g. Other information and materials specific to the facility being licensed as indicated on the license application.
- C. Payment of a non-refundable application fee per license sought and/or proof that the applicant has, within the prior three hundred sixty-five (365) days, paid the zoning application fee for zoning approval associated with the facility identified in the application. Fees shall be offset to ensure the annual fees required by facility ordinances or zoning regulations promulgated pursuant to the MMFLA & MRTMA do not exceed five thousand dollars (\$5,000.00) annually, per application.

Section 8. Conduct of Business at Licensed Facility

- A. The operations at a licensed facility shall be conducted in compliance with the MMFLA and the MRTMA, and any rules promulgated pursuant to other laws, rules, and regulations of the state of Michigan and the Charter Township of Garfield.
- B. All security measures required by the State shall be maintained.

- C. Security devices and all components of those devices required by the State, including but not limited to, video surveillance systems, alarm systems, and locks, shall be in good working order.
- D. Access to the licensed facility is restricted to the licensee and employees of the licensee, law enforcement officials, or authorized Township employees acting within the scope of their employment.
- E. A licensee shall display all facility licenses issued under this Ordinance and state operating licenses in plain view.
- F. A licensee shall not permit or allow the sale or consumption of marihuana on licensed premises.

Section 9. License Denial, Suspension, or Revocation

- A. A license issued under this Ordinance may be denied, suspended, revoked, or nonrenewed for any of the following reasons:
 - a. The applicant or licensee is ineligible or does not hold the appropriate state operating license under the MMFLA or MRTMA.
 - b. 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 law.
 - c. A license application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the Township with any other false or misleading information related to the facility.
 - d. Marijuana is grown, dispensed, possessed, distributed, or sold on the premises in violation of this Ordinance or any other applicable state or local law, rule or regulation.
 - e. The facility is operated or is operating in violation of the specifications of the license application, license, any conditions of approval by the Township or any other applicable state or local law, rule or regulation.
 - f. The Township has closed the facility temporarily or permanently or has issued any sanction for failure to comply with the provisions of this Ordinance or other applicable state or local laws related to public health and safety.
 - g. The facility's state operating license has been suspended, revoked, denied, or not renewed.
 - h. The facility has been operated in a manner that adversely affects the public health, safety or welfare. Evidence to support a finding under this Section may include, without limitation, a recurring pattern of conduct that violates Township ordinances directly related to or arising from the operation of the facility; a recurring pattern of drug-related criminal conduct within the premises of the facility or in the immediate area surrounding the facility; a recurring pattern of criminal conduct directly related to or arising from the operation of the facility; or an ongoing nuisance condition emanating from or caused by the facility. Criminal drug-related conduct considered under this Section shall be limited to the violation of a State law, state regulation, or township ordinance.

Section 10. Revocation Not Exclusive Penalty or Remedy

Nothing in this Ordinance shall be deemed to prohibit the Township from imposing other penalties or seeking other remedies authorized by other ordinances of the Township.

Section 11. Fees

The annual license fee shall be as established by the Township Board.

Section 12. Renewal of Existing Licenses

- A. The same procedures that apply to applying for a new license shall apply to the renewal of existing licenses.
- B. An application for renewal of an existing license shall be submitted no sooner than sixty (60) days before the existing license expires and no later than thirty-one (31) days before the expiration date.
- C. If a license renewal is not submitted by the license expiration date, the license may be renewed within sixty (60) days after its expiration date upon application, payment of applicable fees and penalties, and satisfaction of any renewal requirements if state licensure is still active.

Section 13. Issuance of License and Authorization to Operate Under License

- A. If, after investigation, the Township Clerk shall be reasonably satisfied that the applicant has successfully demonstrated compliance with all requirements for issuance of a license, the Township Clerk shall issue a license or grant renewal of an existing license.
- B. A licensee is authorized to operate under a license issued pursuant to this Ordinance only after the following additional requirements are met:
 - a. The licensee also holds a valid current state operating license for that location and facility type. A copy of the valid current state operating license shall be provided to the Township Clerk.
 - b. A certificate of occupancy has been issued.
 - c. The licensee is not operating in violation of any Township ordinances or state law.
 - d. Zoning is deemed appropriate by the Township for the location.
 - e. Any other license specific requirements as stated herein and in the license application have been met.

Section 14. Penalty for Violations

- A. Any person who violates a provision of this Ordinance shall be responsible for a municipal civil infraction.
- B. Each day of violation shall be a separate violation.

Section 15. Coordination with State Licensing Authorities

The Township Clerk shall coordinate with the Michigan Marijuana Regulatory Agency (MRA) to provide information that LARA or the MRA deems necessary to carry out licensing under the MMFLA and MRTMA, including but not limited to:

- A. Attestation as to ordinances and zoning regulations adopted by the Township relating to facilities, and amendments thereto.
- B. Information regarding a licensee or applicant for a state operating license including:
 - a. Information that is necessary to determine whether a state operating license should be issued or renewed;
 - b. Description of a violation of an ordinance or a zoning regulation committed by the licensee, but only if the violation relates to activities licensed under this Ordinance, zoning regulations, or applicable laws;
 - c. Denial, suspension, revocation, or nonrenewal of a facility license; or
 - d. Whether there has been a change to an ordinance or zoning regulation and/or licensing since the state operating license was issued, and a description of the change.
- C. Recommendation to LARA that a state operating license for a facility located in Garfield Township be restricted or not renewed. The Township Clerk shall provide specific written input and information necessary for LARA to consider the recommendation.

Section 16. Conflicts with Other Laws or Regulations

Nothing in this Ordinance shall be construed in such a manner as to conflict with the MMFLA, MMMA, MRTMA, or other applicable state law or rules. If any provision of this Ordinance differs from a provision of any other applicable law, ordinance, rule or regulation, both the provision of this Ordinance and the differing provision shall apply if possible. If the two (2) provisions are in conflict, then the provision establishing the higher or stricter standard shall apply, consistent with state law.

Section 17. Severability

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 18. Acceptance of Licensing Applications

- A. The Township Clerk will begin accepting license applications on September 27, 2021 for a safety compliance facility.
- B. The Township shall give priority processing preference to applications in accordance with Township Policy.

At a regular meeting held on September 14, 2021, a motion was offered by Denise Schmuckal, with support from Molly Agostinelli, to approve the foregoing Ordinance No. 76. The motion carried as follows in a roll call vote.

Upon roll call vote, the following voted:

YES: Schmuckal, Agostinelli, Barsheff, Macomber, Duell, McManus and Korn

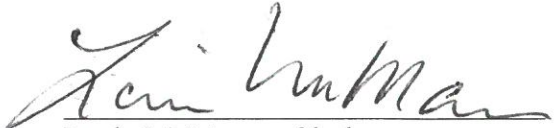
NO: None

ABSENT: None

ORDINANCE NO. 76 ADOPTED.



Chuck Korn, Supervisor



Lanie McManus, Clerk

CERTIFICATE

I, Lanie McManus, the Clerk of Charter Township of Garfield, do hereby certify that the above is a true and correct copy of Ordinance No. 76 which was adopted by the Township Board of the Charter Township of Garfield on the 14th day of September, 2021. Garfield Township Ordinance No. 76 shall take effect upon the expiration of seven (7) days following publication.

9-15-2021
Dated:



Lanie McManus, Clerk

Introduced: August 24, 2021
Adopted: September 14, 2021
Published: September 19, 2021
Effective: September 26, 2021