

## **Chapter 802 – Medical Marijuana Facilities Licensing**

### **Section 802.1 – 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. Pursuant to MCL 333.27956(4), an annual nonrefundable fee shall be paid to the Township for purposes of defraying the administrative, enforcement, and other actual costs associated with medical marihuana facilities located in the Township. Such annual fee shall be in an amount not to exceed five thousand (\$5,000.00) dollars 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 regarding any potential criminal liability the person may have for the use, 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. Whenever multiple facilities are to be built on the same property or on a contiguous property(ies) owned and/or operated by the same person(s) and/or entity(ies), construction must be completed, and a Certificate of Occupancy must be obtained, for all facilities simultaneously.

### **Section 802.2 – 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 a 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 a 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, fees, or other financial obligations 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 marihuana facility for security purposes and compliance with applicable Township requirements.
  - d. A plan for disposal of any medical marihuana or medical marihuana-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 marihuana facility that describes the ventilation and filtration systems that will be used to prevent any odor of medical marihuana 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 herbicides, pesticides, fertilizer, and chemical materials and all toxic, flammable, and combustible materials that will be used or kept at the marihuana

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 marihuana facility, the plumbing, and electrical wiring and equipment existing or to be installed on the premises to service and meet the demands of the marihuana 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 marihuana provisioning centers: (a) a patient education plan to detail to patients the benefits or drawbacks of certain marihuana strains or products in connection with the debilitating medical conditions set forth in the Michigan Medical Marihuana 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 marihuana 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 marihuana 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 one million dollars (\$1,000,000.00) per occurrence and a two million dollars (\$2,000,000.00) 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 the 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 five (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 Chief (or his designee), 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 non-refundable, except as may be otherwise specified in this Ordinance.
- C. The application shall further include an application for a Special Land Use Permit pursuant to the provisions of the Lenox Township Zoning Ordinance. An applicant may apply for and obtain a Special Land Use Permit prior to the application and/or approval of a provisional medical marihuana facility approval certificate, such provisional certificate being provided for under Article II, Section 5 of this Ordinance, below. A provisional medical marihuana facility approval certificate shall not be a condition precedent to an application for a Special Land Use Permit.
- D. 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.

- E. Applications must be hand-delivered or mailed to the Clerk or their designee at the Township Hall. An application will be considered as having been received on the date it is personally hand-delivered to the Clerk or their designee as provided above, or if mailed, on the first day the Township Hall is open for business on or after the day the mail is delivered to the Township Hall. 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 considered as having been received or processed under this Ordinance.
- F. An applicant may withdraw their application, in a writing delivered to the Clerk, at any time until the issuance of the license. In the event a written withdrawal is delivered to the Clerk within five (5) business days of the date of submission marked on the application by the Clerk pursuant to this Ordinance, the Township shall refund ninety-five percent (95%) of the application fee.

### **Section 802.3 – Initial License Application Processing; Licensing Application Period(s) Alterable Via Resolution.**

- A. The Township Board may or may not, pursuant to resolution as the case may be in the Township Board's discretion, accept license applications year-round and at any time. Consistent with this Section, the Township Board, by resolution, may establish and announce alternative temporal parameters for licensing applications, including, but not limited to, the utilization of successive-licensing rounds and application-enrollment time periods.
- B. The Township Clerk shall circulate each application that has been timely received to the Township Treasurer, Building Official, Planning and Zoning Administrator, Fire Chief (or his designee), 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 marijuana 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 Chief (or his designee), 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 ten (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 his or her sole discretion, grant an extension of time not exceeding thirty (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. The applicant shall not be prohibited from submitting a new application for the same facility in the future commensurate with the temporal regulations placed upon the applicant by the Township Board via resolution.
- 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 802.4 – 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 decides 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 basis 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 Chief (or their designee), 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. Commencement of Construction of the proposed facility must begin no later than 1 year after the date of issuance of the provisional approval certificate. "Commencement of Construction" means to begin or cause to begin, as part of a continuous program, the placement, assembly, and/or installation of facilities and equipment; and/or to conduct significant site preparation work, including clearing, excavation and removal of existing buildings, structures, and facilities, and the implementation of utilities (gas, water, sewer, electricity) necessary for the placement, assembly, and/or installation of facilities.
- 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 one hundred eighty (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, showing that the applicant has

satisfied the Commencement of Construction requirement in Section 5(B), above, and showing good cause for the extension of time.

#### **Section 802.5 – 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.
- C. Whenever multiple facilities are to be built on the same property or on contiguous property(ies) owned and/or operated by the same person(s) and/or entity(ies), construction must be completed, and a Certificate of Occupancy must be obtained, for all facilities simultaneously.