

## **ORDINANCE NO. 75.2**

AN ORDINANCE OF THE CHARTER TOWNSHIP OF LANSING, INGHAM COUNTY, MICHIGAN, PROVIDING THAT THE CODE OF ORDINANCES, CHARTER TOWNSHIP OF LANSING, MICHIGAN, BE AMENDED BY AMENDING CHAPTER 71B (“PROHIBITION OF MARIHUANA ESTABLISHMENTS”) TO TITLE VI (“LICENSING”) TO: CHANGE THE CHAPTER’S TITLE FROM “PROHIBITION OF MARIHUANA ESTABLISHMENTS” TO “MARIHUANA FACILITIES”; ESTABLISH THE MAXIMUM NUMBER OF MARIHUANA FACILITIES THAT MAY BE AUTHORIZED WITHIN THE TOWNSHIP; ESTABLISH AN APPLICATION PROCEDURE FOR AUTHORIZING MARIHUANA FACILITIES; ESTABLISH GENERAL REGULATIONS FOR AUTHORIZED MARIHUANA FACILITIES; PROVIDE FOR AN ANNUAL MARIHUANA FACILITIES FEE; PROVIDE FOR PENALTIES FOR VIOLATIONS AND DESIGNATE VIOLATIONS OF THE ORDINANCE AS MUNICIPAL CIVIL INFRACTIONS; REPEAL ORDINANCES AND PORTIONS OF ORDINANCES INCONSISTENT WITH THIS ORDINANCE; AND PROVIDE AN EFFECTIVE DATE THEREOF.

THE TOWNSHIP BOARD OF TRUSTEES FOR THE CHARTER TOWNSHIP OF LANSING HEREBY ORDAINS:

1. The Charter Township of Lansing Code of Ordinances is hereby amended by amending Chapter 71B (“Marihuana Facilities”) to Title VI (“Licensing”) as follows:

Chapter 71B – Marihuana Facilities

### **Section 71B-1. Title.**

This ordinance shall be known as, and may be cited as, the Charter Township of Lansing Marihuana Facilities Ordinance.

### **Section 71B-2. Definitions.**

Words used herein shall have the definitions as provided for in the Michigan Regulation and Taxation of Marihuana Act, as may be amended (the “MRTMA”), or any successor to said public act.

### **Section 71B-3. Authorized Marihuana Facilities.**

- (1) The following marihuana facilities may be authorized to operate within the Township by the holder of a state operating license, subject to compliance with the MRTMA, the Rules promulgated thereunder and this ordinance:

- a. Not more than two (2) marihuana growers shall be authorized in the Township, which number shall include all of the following Class A, Class B and Class C growers authorized in the Township:
    - i. Not more than one (1) Class A growers (500 marihuana plants) may be authorized in the Township.
    - ii. Not more than one (1) Class B growers (1,000 marihuana plants) may be authorized in the Township.
    - iii. Zero (0) Class C growers (1,500 marihuana plants) may be authorized in the Township.
  - b. Not more than two (2) marihuana processor(s) shall be authorized in the Township.
  - c. Zero (0) marihuana retailers or provisioning center(s) shall be authorized in the Township.
  - d. Not more than two (2) marihuana safety compliance facility(ies) shall be authorized in the Township.
  - e. Not more than one (1) marihuana secure transporter(s) shall be authorized in the Township.
  - f. Zero (0) marihuana microbusiness(es) shall be authorized in the Township.
- (2) Beginning fifteen (15) business days following this Chapter taking effect, the Township shall establish an enrollment period to accept applications for authorization to operate a marihuana facility within the Township. Application shall be made on the Township's form and must be submitted to the Township Clerk and/or other designee approved by the Township Clerk or the Township Board (hereinafter referred to as "Clerk").
- (3) Once the Clerk receives a complete application including the initial annual marihuana facility fee, the application shall be time and date stamped. Complete applications shall be considered for authorization as provided in this Chapter.
- (4) The Clerk is authorized to assess, evaluate, score and rank all applications submitted to the Township pursuant to this Chapter. The Clerk may develop a scoring and ranking procedure consistent with the requirements, conditions and provisions of this Chapter, including the categories set forth below. The categories to be considered by the Clerk are:
- a. The content and sufficiency of the information provided by an applicant in and with its application; the maximum number of scoring points in this category shall be five (5);

- b. Whether the proposed establishment will be consistent with land use for the surrounding neighborhood, including but not limited to other marihuana facilities in the vicinity of the proposed establishment, and not have a detrimental effect on traffic patterns and resident safety; the maximum number of scoring points in this category shall be twenty (20);
  - c. Whether the applicant or its stakeholders have made, or plan to make significant physical improvements to the property that would house the proposed establishment, including plans to promote security, eliminate or minimize noise, and odor effects on the surrounding neighborhood; the maximum number of scoring points in this category shall be twenty-five (25);
  - d. Whether an existing building will be rehabilitated/renovated for use by the proposed establishment; the maximum number of scoring points in this category shall be ten (10);
  - e. Whether the applicant or any of its stakeholders have a record of acts detrimental to the public health, security, safety, morals, good order, or general welfare, or have previously operated an illegal business of any kind, including any violations of moratoria on marihuana-related businesses, facilities, or establishments, prior to filing an application with the Township; the maximum number of scoring points in this category shall be twenty (20);
  - f. Whether the applicant has reasonably and tangibly demonstrated that it possesses sufficient financial resources to fund, and the requisite business experience to execute, its business plan and other plans required by the application; the maximum number of scoring points in this category shall be twenty (20);
  - g. Whether the applicant or any of its stakeholders is a resident of the Township; the maximum number of scoring points in this category shall be one (1), and this category shall only be scored by the Clerk in the event of a tie score for multiple applicants based on the categories in subsections (a) through (f), above, in order to break such a tie score.
- (5) The highest ranking and scored applicant(s) shall receive conditional authorization for available license(s) for the applicable type of facility. However, no applicant shall receive conditional authorization unless the applicant received a minimum of 80% of the points available pursuant to the scoring procedure in subsection (4), above.
- (6) Following the effective date of this Chapter, the Clerk shall establish thirty (30) day enrollment periods, as needed, for applications for available licenses for marihuana facilities.
- a. During the initial enrollment period, the Clerk shall accept applications for available facility licenses. At the conclusion of the initial enrollment period, the Clerk shall process all complete applications that meet the minimum application requirements. In the event that, during the initial enrollment period, more complete applications are filed with the Clerk for a type of facility than there are available licenses for the applicable type of facility, then the Clerk shall score and rank the applications pursuant to Section 71B-3(4) above. The applications that score and are ranked highest for available facility licenses shall receive conditional authorization from the Township.
  - b. Following the initial enrollment period, and any subsequent enrollment period, if any facility licenses remain or become available, the Clerk shall open a

subsequent enrollment period during which the Clerk will accept new applications and amended applications. Applications received during a subsequent enrollment period shall be processed and, if necessary, scored and ranked, as provided in subsection (4) above.

- c. Once the limit on the number of an authorized facility is conditionally reached, then any additional complete applications shall be held by the Clerk for future conditional authorization, in the event that a conditionally authorized applicant fails to satisfy the requirements of this Chapter for receiving full authorization, or in the event that the Clerk opens a subsequent enrollment period. Any applicant who withdraws their application prior to the close of an enrollment period, must do so in by written notice to the Clerk and will receive refund of the initial marihuana fee submitted.
- (7) Within thirty (30) days from conditional authorization from the Township, the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied to the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next highest ranked and scoring applicant during the applicable enrollment period, provided that the applicant received a minimum of 80% of the points available pursuant to the scoring procedure in subsection (4), above. In the event that no such applicant satisfies that requirement, the Clerk is authorized to open a subsequent enrollment period.
  - (8) If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk and the conditional authorization shall be available to the next highest ranked and scoring applicant during the applicable enrollment period, or any subsequent enrollment period, provided that the applicant received a minimum of 80% of the points available pursuant to the scoring procedure in subsection (4), above. In the event that no such applicant satisfies that requirement, the Clerk is authorized to open a subsequent enrollment period.
  - (9) A conditionally authorized applicant shall receive full authorization from the Township to operate the marihuana facility within the Township upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the marihuana facility in the Township and the applicant has met all other requirements of this ordinance for operation including but not limited to any zoning/site plan approval for the location of the facility within the Township.
  - (10) If a conditionally authorized applicant fails to obtain full authorization from the Township within one (1) year from the date of conditional authorization, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next highest ranked and scoring applicant during the applicable enrollment period, or any subsequent enrollment period, provided that the applicant received a minimum of 80% of the points available pursuant to the scoring procedure in subsection (4), above. In the event that no such applicant satisfies that requirement, the

Clerk is authorized to open a subsequent enrollment period. The Township Board shall have authority to extend the deadline to obtain full authorization for up to an additional six months on written request of the applicant, within thirty (30) days prior to cancellation, upon the reasonable discretion of the Township Board finding good cause for the extension.

**Section 71B-4. General Regulations Regarding Authorized Marihuana Facilities.**

- (1) An authorized marihuana facility shall only be operated within the Township by the holder of a state operating license issued pursuant to the MRTMA, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.
- (2) Prior to operating an authorized marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township zoning ordinance regulations. The facility shall only be operated as long as it remains in compliance with all Township zoning ordinance regulations.
- (3) Prior to operating an authorized marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township construction and building ordinances, all other Township ordinances specifically regulating marihuana facilities, and generally applicable Township police power ordinances. The facility shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.
- (4) An authorized marihuana facility shall consent to inspection of the facility by Township officials and/or by the Township Police Department, upon reasonable notice, to verify compliance with this ordinance.
- (5) If at any time an authorized marihuana facility violates this ordinance, the Township Board may request that the state revoke or refrain from renewing the facility's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the Township authorization and the authorization shall be available to the next highest ranked and scoring applicant during the applicable enrollment period, or any subsequent enrollment period, provided that the applicant received a minimum of 80% of the points available pursuant to the scoring procedure in subsection (4), above. In the event that no such applicant satisfies that requirement, the Clerk is authorized to open a subsequent enrollment period.
- (6) It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized marihuana facility a vested right, license, privilege or permit to continued authorization from the Township for operations within the Township.
- (7) The Township expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized marihuana facilities authorized to operate within the Township.

### **Section 71B-5. Annual Marihuana Fee.**

There is hereby established an annual nonrefundable Township marihuana facility fee in the amount of \$5,000.00, for each authorized marihuana facility within the Township, to help defray administrative and enforcement costs associated therewith. An initial annual marihuana facility fee of \$5,000.00 shall be payable at the time of application for Township authorization and thereafter the same amount shall be payable each year by the anniversary of the date of full Township authorization to operate the marihuana facility.

### **Section 71B-6. Violations and Penalties.**

- (1) Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
- (2) A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court. For purposes of this section, "subsequent offenses" means a violation of the provisions of this ordinance committed by the same person within one (1) year of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs, including but not limited to all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
- (3) Each day during which any violation continues shall be deemed a separate offense.
- (4) In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
- (5) This ordinance shall be administered and enforced by the Code Enforcement Officer of the Township, and/or the Police Department or by such other person (s) as designated by resolution of the Township Board from time to time.

**Section 71B-7. Ordinance Scope.**

This ordinance shall not be construed to apply to medical marihuana facilities, which are regulated by Chapter 71A (“Medical Marihuana Facilities”) of the Township’s Code of Ordinances. Except as expressly provided in this ordinance or in Chapter 71A, marihuana facilities and establishments are prohibited within the Township’s boundaries.

2. Severability. If a court of competent jurisdiction declares any provision of this ordinance, or a statutory provision referred to or adopted by reference herein, to be unenforceable, in whole or in part, such declaration shall only affect the provision held to be unenforceable and shall not affect any other part or provision. Provided, however, that if a court of competent jurisdiction declares a penalty provision to exceed the authority of the Township, the penalty shall be construed as the maximum penalty that is determined by the court to be within the authority of the Township to impose. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing marihuana facilities pursuant to the MRTMA.

3. Repeal. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this ordinance are hereby repealed; provided that any violation charged before the effective date of this ordinance under an ordinance provision repealed by this ordinance shall continue under the ordinance provision then in effect.

4. Effective Date. This ordinance shall take effect on \_\_\_\_\_, 2020 following its adoption and publication as required by law.

\_\_\_\_\_  
Dion’trae Hayes, Supervisor  
Charter Township of Lansing

I, Susan L. Aten, Clerk of the Charter Township of Lansing, hereby certify that the foregoing is a true copy of the original of Ordinance No. \_\_\_\_, enacted by the Charter Township of Lansing Board of Trustees at a regular meeting on \_\_\_\_\_, 2020.

\_\_\_\_\_  
Susan L. Aten, Clerk  
Charter Township of Lansing