

THE CHARTER TOWNSHIP OF GARFIELD

ORDINANCE NO. 65

Medical Marihuana Ordinance

An ordinance establishing registration requirements and regulations for the cultivation and transfer of medical marihuana in accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 *et seq.*

WHEREAS the Michigan Medical Marihuana Act was enacted by the People of the State of Michigan and took effect on December 4, 2008; and

WHEREAS the Michigan Medical Marihuana Act provides limited protection against prosecution for the use, cultivation and transfer of medical marihuana in accordance with specific and narrow standards and regulations set out in the Act; and

WHEREAS marihuana, including medical marihuana, remains a Schedule 1 controlled substance under the Public Health Code, meaning it has a high potential for abuse; and

WHEREAS medical marihuana related activities require special supervision from the public safety agencies of the Township in order to protect and preserve the health, safety and welfare of medical marihuana patients and caregivers, as well as the citizens of the Township; and

WHEREAS the Township finds that medical marihuana related activities, as a category of uses, have a significant potential for abuse and illegal conduct that can threaten the health, safety and welfare of Township residents absent careful monitoring and regulation; and

WHEREAS the Township finds that medical marihuana related activities, as a category of uses, have a significant potential for deleterious secondary effects, including the sale and use of other controlled substances, robberies, assaults, break-ins, vagrancy and depressed property values; and

WHEREAS the Township recognizes its constitutional duty to interpret, construe and amend its laws to comply with State of Michigan requirements as they are announced; and

WHEREAS the Township desires to provide for those medical marihuana related activities that are directly provided for by the Michigan Medical Marihuana Act;

NOW THEREFORE THE CHARTER TOWNSHIP OF GARFIELD ORDAINS:

Section I: Title

This ordinance shall be known and cited as the Garfield Township Medical Marihuana Ordinance.

Section II: Purpose

The purpose of this ordinance is to regulate the conduct of activity pursuant to the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.* in order to:

- a) Protect the health, safety and welfare of the general public;
- b) Establish a set of rules and regulations which are fair and equitable for those interested in establishing medical marihuana related activities in compliance with the Michigan Medical Marihuana Act;
- c) Provide reasonable regulation pursuant to the Township's general police power granted to townships by the Michigan Constitution of 1963 and the Charter Township Act, MCL 42.1 *et seq.*

The Township does not intend that registration and regulation under this ordinance be construed as a finding that such businesses and activities are legal under state or federal law. Although some specific uses of marihuana are purported to be exempt from prosecution by the Michigan Medical Marihuana Act, marihuana continues to be classified as a Schedule 1 controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute or dispense marihuana, or to possess it with intent to manufacture, distribute, or dispense. By requiring registration and compliance with requirements as provided in this ordinance, the township intends to protect to the extent possible the public health, safety and welfare of the residents of and visitors to the Township, including but not limited to registered qualifying patients, from harm that may result from the activities of persons who unilaterally or on the advice of their own attorney determine that they may legally operate a business involved in the possession, use, manufacture, distribution or dispensing of medical marihuana.

Nothing in this ordinance is intended to grant, nor shall it be construed as granting, immunity from criminal prosecution for possession, use, manufacture, distribution or dispensing of marihuana not in strict compliance with the Michigan Medical Marihuana Act. Also, since Federal law is not affected by the Michigan Medical Marihuana Act, nothing in this ordinance, or in any companion regulatory provision adopted in any other provision of a Township ordinance, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.

Section III: Legal Basis

This ordinance is enacted pursuant to the statutory authority granted by the Charter Township Act, being Act 359 of 1947, MCL 42.1 *et seq.*, authorizing the Township Board to adopt ordinances and regulations to secure the public health, safety and general welfare.

Section IV: Definitions

For purposes of this ordinance, terms and words defined by the Michigan Medical Marihuana Act shall have the same meaning as provided in the Michigan Medical Marihuana Act.

Additionally, certain terms and words used herein shall have the following meaning:

- A. ***Dwelling Unit*** shall have the same meaning as defined in the Garfield Township Zoning Ordinance.
- B. ***Lot*** shall have the same meaning as defined in the Garfield Township Zoning Ordinance.
- C. ***Medical Marihuana*** means marihuana as defined by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.* grown, used, or transferred for "medical use" as defined by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*
- D. ***Medical Marihuana Collective*** means (a) any commercial use of property for the purpose of sale of medical marihuana for money or other consideration to registered qualifying patients or registered primary caregivers, or (b) any commercial business, commercial establishment or commercial structure that provides or rents space to multiple caregivers for storage and/or sale of Medical Marihuana. *Medical Marihuana Collective* includes uses commonly referred to as Medical Marihuana Dispensaries, Compassion Centers, Provisioning Centers and Medical Marihuana Cooperatives. The sale of *Medical Marihuana* where any other commodity, product or service is also available shall be considered a *Medical Marihuana Collective*.
- E. ***Medical Marihuana Cultivation*** means a use where *Medical Marihuana* is grown by a primary caregiver or a qualifying patient as permitted by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*

- F. **Medical Marihuana Cultivation Facility** means a use where *Medical Marihuana Cultivation*, as defined by this ordinance, is being conducted on a lot, but shall not include a Medical Marihuana Collective.
- G. **Medical Marihuana Residential Cultivation** means *Medical Marihuana Cultivation* undertaken by a primary caregiver, or a qualifying patient that has not specified a primary caregiver to cultivate marihuana for the qualifying patient, at the primary caregiver's or qualifying patient's primary place of residence.

Section V: Ingestion of Medical Marihuana and Primary Caregiver to Patient Transfers

The ingestion by any means of medical marihuana is neither addressed nor regulated by the provisions and standards of this ordinance. The transfer of medical marihuana from a primary caregiver to a qualifying patient is not regulated by the ordinance except at *Medical Marihuana Cultivation Facilities* and commercial establishments defined as *Medical Marihuana Collectives*.

Section VI: Medical Marihuana Residential Cultivation

Medical Marihuana Residential Cultivation shall be considered and permitted as an accessory use to a dwelling unit provided that it shall comply at all times with the provisions of the Garfield Township Zoning Ordinance No. 10, as amended from time to time.

Section VII: Medical Marihuana Cultivation Facility

Medical Marihuana Cultivation Facilities shall be permitted only where "Medical Marihuana Cultivation Facility" is specifically listed and permitted by the Garfield Township Zoning Ordinance, provided further that such shall comply at all times with the following:

- a) All *Medical Marihuana Cultivation* shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
- b) Not more than one (1) primary caregiver or qualifying patient shall be permitted to cultivate Medical Marihuana on any one (1) lot;
- c) Each *Medical Marihuana Cultivation Facility* shall obtain and continue to hold a Certificate of Registration issued by the Township in accordance with this ordinance;
- d) No transfer of *Medical Marijuana* by the primary caregiver or qualifying patient cultivating the *Medical Marihuana* to any other person(s) shall take place at a *Medical Marijuana Cultivation Facility*.

Section VIII: Medical Marihuana Collectives

Medical Marihuana Collectives are not permitted within the Charter Township of Garfield.

Section IX: Medical Marihuana Cultivation Facility – Registration Required

- 1) No person shall operate a *Medical Marihuana Cultivation Facility* at a location for which an annual Certificate of Registration as provided for in this ordinance has not been issued and/or renewed as required by this ordinance.
- 2) The registration requirement in this ordinance applies to all *Medical Marijuana Cultivation Facilities* that exist on the effective date of this ordinance or are established after the effective date of this ordinance.
- 3) The registration requirement set forth in this ordinance shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other state or local law.
- 4) A Certificate of Registration issued under this ordinance shall expire one year after the date of issuance.
- 5) No Certificate of Registration issued under this ordinance may be transferred or assigned, and no Certificate of Registration is valid for any location other than the location specified in the Certificate of Registration.

Section X: Application Requirements for a New Annual Certificate of Registration or Renewal of Existing Certificate of Registration

- 1) No applications for a *Medical Marihuana Cultivation Facility* will be accepted by the Township until thirty (30) days after the effective date of this chapter.

- 2) New Annual Certificate of Registration Application: An application for a new annual Certificate of Registration for a *Medical Marihuana Cultivation Facility* shall be submitted to the Township Clerk on a form provided by the Township for preliminary review by Township staff to confirm that the applicant has submitted a complete application, which shall fulfill all of the requirements indicated on the form, including but not limited to:
 - a) The name and address of the *Medical Marihuana Cultivation Facility* and any other contact information requested on the application form.
 - b) The name and address of all owners of the real property where the *Medical Marihuana Cultivation Facility* is located.
 - c) Name, street address, and other contact information of all owners of the *Medical Marihuana Cultivation Facility* and, if the owner is a corporation, limited liability company, partnership, or sole proprietor with an assumed name, of all directors, officers, members, partners, and individuals, all of whom are considered collectively to be the registrant.
 - d) Proof of applicant's ownership or legal possession of the premises and, if the applicant does not own the premises, the signatures of all owners on the application indicating that the owners support issuance of a Certificate of Registration for the property.
 - e) A zoning compliance permit that shows the proposed *Medical Marihuana Cultivation Facility* is located in a zoning district that would permit its operation.
 - f) A building compliance verification or a certificate of occupancy that shows the structure for the proposed *Medical Marihuana Cultivation Facility* meets the requirements of the applicable use group under the Michigan Building Code.
 - g) Payment of a non-refundable registration fee, which shall be determined by resolution of the Township Board. Fees for zoning compliance permits, building compliance verification, and certificates of occupancy shall be separate from the registration fee.
- 3) Renewal or Amendment of Existing Certificate of Registration: The same procedures for application for and issuance of a new Certificate of Registration shall apply to renewal or the amendment of an existing Certificate of Registration, subject also to the following:
 - a) To renew an existing Certificate of Registration, the registrant shall submit an application in the same manner as is required to apply for a new Certificate of Registration no sooner than ninety (90) days before the expiration date and no later than sixty (60) days before the expiration date.
 - b) An amended application shall be submitted when there is a change in any information the applicant was required to provide in the most recent application on file with the Township.
 - c) An application to change the location of an existing Certificate of Registration shall require a new application and shall be processed in the same manner as provided for the issuance of a new Certificate of Registration.

Section XI: Certificate Of Registration

If the applicant has successfully demonstrated compliance with all requirements for issuance of a Certificate of Registration, the Township Clerk or designee shall issue a Certificate of Registration for a *Medical Marihuana Cultivation Facility* to the applicant. An applicant who fails to demonstrate compliance with all requirements of this ordinance or who is found to have submitted an application that contains any false or incomplete information is not eligible for issuance of a Certificate of Registration.

Section XII: Certificate of Registration Revocation

A Certificate of Registration issued under this ordinance may be suspended or revoked for any of the following violations:

- 1) Any person required to be named on the application for the Certificate of Registration is convicted of or found responsible for violating any provision of this ordinance;
- 2) The 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 *Medical Marihuana Cultivation Facility*;
- 3) Marihuana is transferred or otherwise dispensed on the business premises in violation of this ordinance or any other applicable state or local law, rule or regulation;

- 4) The *Medical Marihuana Cultivation Facility* is operated or is operating in violation of the specifications of the Certificate of Registration application, any conditions of approval by the Township or any other applicable state or local law, rule or regulation.
- 5) The Township, or the County or the department or any other governmental entity with jurisdiction, has closed the business temporarily or permanently or issued any sanction for failure to comply with health and safety provisions of this ordinance or otherwise applicable to the business or any other applicable state or local law.
- 6) The *Medical Marihuana Cultivation Facility* is determined by the Township to have become a public nuisance.

Section XIII: Revocation Not Exclusive Penalty.

Nothing in this ordinance shall be deemed to prohibit the Township from imposing other penalties authorized by this code or other ordinance of the Township, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

Section XIV: Civil Infraction

Any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine for each violation in accordance with the schedule set forth herein, along with costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10.00 nor more than \$500.00 be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. The provisions of this ordinance may also be enforced by suit for injunctive relief.

Civil Fines for Municipal Infractions

Civil Fines for municipal civil infractions shall be assessed in accordance with the following schedule.

	<u>Fine</u>
1 st violation within 3-year period*	\$200.00
2 nd violation within 3-year period*	\$350.00
3 rd violation within 3-year period*	\$500.00

Section XV: Severability

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.

Section XVI: Effective Date

This ordinance shall take immediate effect upon publication following its adoption.

The following voted:

YEAS: Agostinelli, Featherstone, Wilson, Blood, Schumacher, Korn
NAYS: None
ABSTAIN: None
ABSENT: Schmuckal

I hereby certify that the foregoing was duly adopted by the Township Board of the Garfield Charter Township, Grand Traverse County, Michigan, at its regular meeting on the 25th day of October, 2011 and that (6) six members of the Township Board were in attendance and (6) six voted for the adoption of the Ordinance.


Kay Schumacher, Clerk

The Charter Township of Garfield
3848 Veterans Drive
Traverse City, Michigan 49684

INTRODUCED: September 27, 2011
ADOPTED: October 25, 2011
PUBLISHED: November 5, 2011
EFFECTIVE: November 5, 2011

Amendment No. 1:

INTRODUCED: October 14, 2014
ADOPTED: October 28, 2014
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