

## MARIHUANA DISPENSARY AND MARIHUANA GROWING FACILITY LICENSES

### Article I. Purpose

The purpose of this section is to regulate the location, but not exclude the use and handling of the medical use of marihuana consistent with the Michigan Medical Marihuana Act, (MMMA) MCL 333.26421 *et seq* by designating the specific locations for the medical use of marihuana. Under no circumstances is the use or handling of marihuana inconsistent with the Michigan Medical Marihuana Act permissible in the Charter Township of Union. In creating these regulations, the Charter Township of Union acknowledges that the majority of voters in Michigan have found and declared that medical research has discovered beneficial uses for marihuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions; that legalizing the medical use of marihuana will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need for that use; and that, although federal law currently prohibits any use of marihuana except under very limited circumstances, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law.

While the Charter Township of Union defers to these findings, it recognizes that there are some uses which, by their very nature, present the potential for deleterious effects upon adjacent residential and commercial areas. It is the further intent of this Ordinance to comply with the Michigan Medical Marihuana Act while protecting the health, safety and welfare of persons in the community and to address and minimize reasonably anticipated secondary effects upon members of the public that would include but are not limited to: danger to law enforcement and other members of the public; increases in criminal activity; and installation of plumbing and electrical facilities that create dangerous conditions. The Charter Township of Union also recognizes that the regulation of the use and handling of marihuana for medical use is necessary to minimize these risks while insuring that marihuana is available to persons registered under the Michigan Medical Marihuana Act.

### Article II. Definitions

As used in this Ordinance, the following words and phrases are defined as follows:

- A. Act means the Michigan Medical Marihuana Act being MCL 333.26421, *et seq*.
- B. Code means any code or ordinance adopted by the Township.
- C. Department means the Michigan Department of Community Health and/or The Department of Licensing and Regulatory Affairs (LARA).
- D. Debilitating Medical Condition shall have the same meaning as is set forth in the Act.
- E. Enclosed Locked Facility means a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a Primary Caregiver or Qualifying Patient, built in a manner consistent with applicable building and property maintenance codes.

- F. Marihuana means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368 being MCL 333.7106.
- G. Marihuana Club means a location where an association or organization, whose purpose is to educate members regarding the medical use of marihuana, whose relationships are of a transitional nature involving three or more unrelated persons, meets. The term Marihuana Club does not include those medical marihuana accessory uses conditionally permitted by Section 8.2.F. of the Township's Zoning Ordinance, which occur in dwelling units.
- H. Marihuana Dispensary means any structure or building where marihuana is transferred, delivered, acquired or sold to Qualifying Patients pursuant to the MMMA. The term Marihuana Dispensary does not include those medical marihuana accessory uses conditionally permitted by Section 8.2.F. of the Township's Zoning Ordinance, which occur in dwelling units.
- I. Marihuana Growing Facility means any structure or building where marihuana is cultivated or manufactured for Qualifying Patients pursuant to the MMMA. The term Marihuana Growing Facility does not include those medical marihuana accessory uses conditionally permitted by Section 8.2.F. of the Township's Zoning Ordinance, which occur in dwelling units.
- J. Medical Use of Marihuana means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered Qualifying Patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
- K. Person means any individual, partnership, corporation, association, club, joint venture, estate, trust, governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- L. Primary Caregiver means a person who is at least twenty-one (21) years old and who has agreed to assist with a Qualifying Patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs and is currently registered pursuant to the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*
- M. Qualifying Patient means a person who has been diagnosed by a physician as having a debilitating medical condition and is currently registered pursuant to the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*
- N. Registry Identification Card means the non-transferable confidential document issued by the Department that identifies a person as a Qualifying Patient or Primary Caregiver.
- O. School means any public or private institution of learning, elementary through secondary (K-12) and any preschool.
- P. Township means the Charter Township of Union.
- Q. Usable Marihuana means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
- R. Written Certification means a document signed by a physician, stating the patient's debilitating medical condition and stating that, in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
- S. Zoning Official means an individual appointed by the Township Board delegated to administer the Charter Township of Union Zoning Ordinance.

**Article III. License Required**

A Marihuana Dispensary and/or Marihuana Growing Facility shall not operate in the Charter Township of Union without first obtaining a license from the Zoning Official pursuant to the requirements

of this Ordinance. The licensing requirements set forth in this Ordinance shall be in addition to, and not in lieu of, any other licensing and/or permitting requirements imposed by state, or local law. A license granted under this Ordinance shall be valid for a period of one (1) year from the date the license was originally issued.

### **Section 3.01 License Application**

An applicant, shall submit to the Zoning Official, along with the License Application, the following:

- A. The address of the proposed location of the Marihuana Dispensary or Marihuana Growing Facility.
- B. Name(s) and address(es) of the owner(s) of the Marihuana Dispensary and/or Marihuana Growing Facility.
- C. If the owner(s) of the Marihuana Dispensary and/or Marihuana Growing Facility is not an individual, the name(s) and address(es) of any and all officer(s), director(s), and of any and all individuals(s) holding an ownership interest in the entity.
- D. Name and address of all physicians who will render services on the premises of the Marihuana Dispensary.
- E. A valid and current certificate of occupancy issued by the Building Official after all necessary inspections have been conducted, which may include but are not limited to electrical inspection, plumbing inspection and the mechanical inspection.
- F. A copy of the Marihuana Dispensary and/or Cultivation Facility Articles of Incorporation and By-laws.
- G. Name and address of the business manager(s) of the Marihuana Dispensary and/or Marihuana Growing Facility if the manager(s) is someone other than the owner(s).
- H. A signed release on a form included with the Application form permitting the Isabella County Sheriff Department to perform a criminal background check to ascertain whether any person named on the application has been convicted of a misdemeanor involving any controlled substance or any felony under Michigan law, or the law of any other state or the United States.
- I. Proof of ownership or legal right to possession of the premises upon which the Marihuana Dispensary and/or Marihuana Growing Facility will be operating at the time the application is submitted. If the premises upon which the Marihuana Dispensary and/or Marihuana Growing Facility is located will be leased, the application shall include written consent by the owner of the property permitting the premises to be used for a Marihuana Dispensary and/or Marihuana Growing Facility.
- J. An operating/business plan for the proposed Marihuana Dispensary and/or Marihuana Growing Facility which includes the following:
  - a. For a Marihuana Dispensary, a written statement that will be conspicuously posted on the premises and provided to Qualifying Patients and Primary Caregivers, which includes the following:
    - 1) A description of the potential side effects of marihuana; and
    - 2) A description of the Marihuana Dispensary's means of educating Qualifying Patient(s) and Primary Caregiver(s) on the right to engage in the medical use of marihuana; and
    - 3) The licensee's policy to refuse service.
  - b. A description of the activities that will be undertaken on the premises including all products and services to be offered.

- c. Description of the means the Marihuana Dispensary shall employ to safely dispense marihuana.
- K. For Marihuana Growing Facilities, a certificate signed by a qualified professional indicating that equipment necessary to handle heating, ventilation and air balance requirements has been installed to prevent the growth of harmful mold or other conditions harmful to individuals inside the facility.
- L. A floor plan, drawn to scale, showing the layout of the premises upon which the Marihuana Dispensary and/or Marihuana Growing Facility will be operating and the principal uses of the floor area depicted.
- M. Proof that the Marihuana Dispensary and/or Marihuana Growing Facility has developed, and will maintain on the premises, or has entered into a contractual relationship with an outside resource, to provide on-site training curriculum capable of meeting employee training needs which includes, but is not limited to, professional conduct, ethics and patient confidentiality. Upon completion of the on-site training, the Marihuana Dispensary and/or Marihuana Growing Facility shall submit to the Zoning Official an affidavit signed by every employee verifying the employee has completed the training.
- N. A signed hold harmless agreement which protects the Charter Township of Union.
- O. Proof of payment of property taxes on the site to be licensed.
- P. Payment of all applicable fees as established by resolution of the Township Board and published in the Township Schedule of Fees.

**Section 3.02 Indebtedness**

An applicant shall not be indebted or obligated in any manner to the Township except for current taxes or current special assessments. However, if the applicant is otherwise qualified pursuant to the provisions of this Ordinance and the Township’s Zoning Ordinance, and is currently subject to a Township approved payment plan for payment of an outstanding amount owed to the Township, and is current on payments under such plan, the applicant may be issued a license, in the discretion of the Township. In such event, the license shall state that it is subject to a payment plan and conditioned upon strict compliance with such payment plan.

**Section 3.03 Nature of License**

- A. A Marihuana Dispensary location or Marihuana Growing Facility location that has been issued a license pursuant to this Ordinance shall not be subject to penalty by the Charter Township of Union, solely for the medical use of marihuana, which is in accordance with this Ordinance, all other applicable Charter Township of Union ordinances, the Medical Marihuana Act and the Administrative Rules of the Michigan Department of Community Health, as they may be amended from time to time.
- B. A license issued pursuant to this Ordinance shall be specific to the Marihuana Dispensary or Marihuana Growing Facility site, does not run with the parcel, is not transferable and shall expire one (1) year after the date it is issued. If the Marihuana Dispensary or Marihuana Growing Facility changes locations or ownership, a new application must be filed and all requirements for the issuance of a new license met. The license may be subject to terms and conditions as the Zoning Official deems necessary to carry out the terms, conditions, and intent of this Ordinance.
- C. A license shall not be issued if any person required under this Ordinance to be named on the application has been convicted of a misdemeanor involving any controlled substance or any

felony involving a controlled substance under Michigan law, or the law of any other state of the United States.

- D. The license requirement in this Ordinance applies to all Marihuana Dispensaries and Marihuana Growing Facilities that exist on the effective date of this Ordinance or are established after the effective date of this Ordinance.
- E. To the extent the State of Michigan adopts additional or stricter laws or regulations governing the medical use of marihuana, the additional or stricter laws or regulations shall control the establishment or operation of any Marihuana Dispensary and/or Marihuana Growing Facility in the Township. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance, denial, or maintenance of any license under this Ordinance, and non-compliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.
- F. Any location subject to a license pursuant to this Ordinance may be required to demonstrate, upon demand by the Township or by local law enforcement officer, that the source and quantity of marihuana on the property upon which a Marihuana Dispensary and/or Marihuana Growing Facility is located is in full compliance with any applicable state law or regulation.
- G. Both a license pursuant to this Ordinance and a Zoning Permit pursuant to the Charter Township of Union's Zoning Ordinance are required for a Marihuana Dispensary and Marihuana Growing Facility.
- H. The issuance of a license pursuant to this Ordinance shall not create an exception, defense, or immunity from state or federal prosecution or forfeiture of property.

#### **Section 3.04 License Requirements**

A Marihuana Dispensary and/or Marihuana Growing Facility that obtains a license pursuant to this Ordinance shall:

- A. Prohibit persons under the age of eighteen (18) from entering the business unless they possess a Registry Identification Card or the equivalent, and the person is accompanied by their Primary Caregiver.
- B. Limit all activity related to the Marihuana Dispensary or Marihuana Growing Facility within an enclosed structure, to ensure that no activity is visible from the exterior of the building.
- C. Operate only between the hours of 8:00 a.m. and 7:00 p.m., including deliveries to and from the premises.
- D. Keep all marihuana in any form within an enclosed locked facility so that the marihuana is not visible from any location outside of the building.
- E. Monitor and secure the premises twenty-four (24) hours per day by security measures that include at a minimum:
  - 1. Installation and use of security cameras to continuously monitor and record all areas of the premises upon which the Marihuana Dispensary and/or Marihuana Growing Facility will be operating. Recordings from security cameras shall be maintained in a secure off-site location.
  - 2. Any usable marihuana kept at the Marihuana Dispensary or Marihuana Growing Facility premises overnight shall be secured in a safe. The safe must be permanently fixed to the premises.
- F. Limit the entrance to a Marihuana Dispensary or Marihuana Growing Facility to a single secure entrance with security measures to deter and prevent theft of marihuana, diversion of marihuana to illicit markets and unauthorized entrance into a structure.
- G. Prominently display the license on the premises.
- H. Prominently display on the premises of a Marihuana Dispensary a written statement which

includes the following:

1. A description of potential side effects of marihuana; and
  2. A description of the Marihuana Dispensary's means of educating Qualified Patient(s) and Primary Caregiver(s) on the right to engage in the medical use of marihuana; and
  3. The Dispensary's policy to refuse service.
- I. Operate in compliance with any and all laws, rules and regulations administered by the Isabella County Health Department and any other applicable state requirements if a Marihuana Dispensary prepares food for human consumption on site.
- J. Package the useable marihuana with a label that includes the name of the Marihuana Dispensary, the delivery date, dollar amount, weight, and a statement that:  
***This product is for medical use and not for resale and is manufactured without any regulatory oversight for health, safety or efficacy.***
- K. Prohibit the ingestion, smoking or other consumption of controlled substances, including marihuana, on the Marihuana Dispensary and/or Marihuana Growing Facility property.
- L. Refrain from emitting odors emanating from marihuana beyond the building.
- M. Refrain from growing, cultivating and manufacturing marihuana on the property of a Marihuana Dispensary.
- N. Refrain from transferring, delivering, acquiring, supplying, selling or dispensing marihuana on the property of a Marihuana Growing Facility.
- O. Limit all light trespass from lights used in the cultivation of marihuana at a Marihuana Growing Facility.
- P. Prohibit any person on the premises of a Marihuana Dispensary or Marihuana Growing Facility unless they:
1. Possess a Registry Identification Card or the equivalent;
  2. Assist a Qualifying Patient in the use or administration of marihuana;
  3. Are an owner of the premises or an employee of the Marihuana Dispensary or Marihuana Growing Facility; or
  4. Are a service worker engaged in maintenance activities, postal delivery or law enforcement, emergency personnel and/or zoning personnel.

#### **Article IV. Location Requirements**

- A. A Marihuana Dispensary and/or Marihuana Growing Facility shall not be located on the same parcel as a dwelling unit.
- B. The parcel on which a Marihuana Dispensary is located shall be situated at least one thousand (1000) feet from the parcel on which another Marihuana Dispensary, a Medical Marihuana Grow Facility, or a Marihuana Club is located, as measured between property lines.
- C. The parcel on which a Marihuana Dispensary is located shall be situated at least five hundred (500) feet from a residential zoning district or a parcel on which a church, house of worship, school, licensed day care, community center or public park is located as measured between property lines or a property line and zoning district boundary when applicable
- D. The parcel on which a Marihuana Growing Facility is located shall be situated at least one-thousand (1,000) feet from the parcel on which another Marihuana Growing Facility, a Marihuana Dispensary, or a Marihuana Club is located, as measured between property lines.
- E. The parcel on which a Marihuana Growing Facility is located shall be situated at least one-

thousand (1000) feet from a residential zoning district or a parcel on which a church, house of worship, school, licensed day care, community center or public park is located as measured between property lines or a property line and zoning district boundary when applicable.

**Article V. Inspections**

Marihuana Dispensaries and Marihuana Growing Facilities shall:

- A. Prior to opening, be inspected by the Township to confirm that all necessary building, electrical, plumbing and mechanical permits have been obtained.
- B. Be inspected quarterly by the Township to confirm compliance with the Township’s Ordinances and the Act.
- C. Be inspected only during reasonable hours by the Township or their designee with the exception of probable cause inspections.
- D. Be notified of the date and time of the inspection by first class mail at least thirty (30) days prior to the inspection date. Property owners shall be responsible for informing tenants of the inspection notice.
- E. Be permitted to be inspected without prior notice if the Township has probable cause to believe that there exists, on the premises, a condition that makes the premises unsafe or there is evidence that an ordinance violation may exist.
- F. Acknowledge that if access to the property or premises is denied, the Township may, upon showing probable cause exists for the inspection and for the issuance of an order directing compliance with the inspection requirements of this Ordinance, petition and obtain such order from a court which has jurisdiction.
- G. Be issued a violation notice by the Township if a code violation exists. The licensee shall be advised of the time period to correct the violation(s). If upon inspection of the premises the Township determines that a violation presents an immediate threat to the health, safety or welfare of the public, the violation shall be corrected immediately and operation of the Marihuana Dispensary or Marihuana Growing Facility can not resume until reinspection and approval by the Township.
- H. Be subject to reinspection of the premises upon correction of a violation on the date specified in the violation notice or sooner if requested by the licensee and if Township scheduling permits.
- I. Permit the Township to inspect its records ensuring that transfers of marihuana quantities do not exceed the maximum amount allowed under the Act. Said records shall be redacted to insure confidentiality, anonymity, and privacy to Qualifying Patients and Primary Caregivers.
- J. The Zoning Official and their designee are authorized to conduct inspections in the manner prescribed in this Ordinance.

**Article VI. Enforcement**

Enforcement of this Ordinance shall be the responsibility of the Zoning Official.

**Section 6.01 Suspension and Revocation**

- A. The Zoning Official may suspend or revoke any license issued under the provisions of this Ordinance upon any of the following findings:
  - 1. A violation of any of the regulations or provisions outlined within this Ordinance or any other applicable Charter Township of Union Ordinance, the MMMA and the Administrative Rules of the Michigan Department of Community Health, as they may be amended from time to time.

2. Operation of a Marihuana Dispensary and/or Marihuana Growing Facility in an unlawful manner or in such a manner contrary to the public health, safety and welfare.
  3. An attempt by a licensee to transfer the license to another or to use the same improperly.
  4. The information provided to the Township was falsified, incomplete, and/or inaccurate.
  5. If the operation of a Marihuana Dispensary and/or Marihuana Growing Facility is held invalid or unconstitutional by any court of competent jurisdiction.
  6. Abandonment of the premises upon which the Marihuana Dispensary and/or Marihuana Growing Facility is operating. For the purpose of this section, the cessation of the use of the property for two (2) months or more and a clear intent by the licensee to abandon the use shall constitute abandonment.
  7. Conviction, of any person required to be named on the application, of a crime which, if occurring prior to submittal of the application, could have been cause for denial of the license application.
  8. Temporary or permanent closure, or other sanction of the business, by the Township, or by the County, or State Public Health Department or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this Ordinance or other applicable law.
- B. Upon serving notice on the licensee of a license suspension by the Zoning Official, all activity related to the medical use of marihuana at the property upon which a Marihuana Dispensary and/or Marihuana Growing Facility is conducted shall cease immediately.
- C. A Person aggrieved by the suspension of a license shall have the right to a hearing before the Township Manager, provided that a written request thereof is filed with the Township Manager within five (5) business days of the receipt of the notice of license suspension. The hearing shall be conducted within five (5) business days from receipt of the notice by the Township Manager provided scheduling permits. The Township Manager shall, after the holding a hearing, reinstate, reinstate with conditions, or revoke the license. Any decision made by the Township Manager shall be final. No person or entity whose license has been revoked shall be eligible to receive another license to operate within the Township for two (2) years from the date of the license revocation.

#### **Section 6.02 Appeals and Exceptions**

- A. Appeals. Any Person aggrieved by a decision relating to the enforcement of this Ordinance, other than a suspension of the Zoning Official, may appeal such decision to the Township Manager. Such appeal shall be filed in writing and given to the office of the Township Manager within fifteen (15) business days from the date of the decision. The Township Manager may reverse or affirm, wholly or in part, or may modify the order, requirement, interpretation, or decision of the Zoning Official.
- B. Exceptions. Whenever the strict application of the requirements of this Ordinance would accomplish a result contrary to same, an appeal for an exception from such requirements may be filed with the Zoning Official on a form provided for such purpose. The Zoning Official may except a provision of this Ordinance only after determining that unique conditions exist where an exception would not adversely impact neighboring properties and could not be addressed by other methods proscribed by this Ordinance, and is otherwise satisfactory, complies with the intent of this Ordinance, and is not detrimental to the public health, safety, and welfare.



**Section 6.03 Violations and Penalties**

1. A Person who violates any provision of this Ordinance, or any condition of an approval granted pursuant to this Ordinance is responsible for a municipal civil infraction, plus costs including all direct and indirect expenses incurred by the Township in connection with the municipal civil infraction. However, in no case shall costs of less than \$9.00 or more than \$500.00 be ordered.
2. In addition to the issuance of a municipal civil infraction, the Sheriff's Department, the Zoning Official, or the Zoning Official's designee, shall have the authority to issue a cease and desist order for any operation found to be in violation of any of the terms of this Ordinance, other Township Ordinances, the MMMA or Administrative Rules of the Michigan Department of Community Health.
3. The imposition of the penalties herein prescribed shall not preclude any Township official from instituting appropriate action to restrain, correct, remove, or otherwise abate a violation of this Ordinance.

**Article VII. Severability**

If any clause, sentence, paragraph, or part of this Ordinance shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

**Article VIII. Repeal.**

All ordinances or parts of ordinances of the Charter Township of Union inconsistent herein are hereby repealed so far as they may be inconsistent with the provisions of this Ordinance.

**Article IX. Effective Date.**

This Ordinance shall take effect on \_\_\_\_\_, 2011.

# Affidavit of Publication

STATE OF MICHIGAN

County of Isabella  
County of Gratiot  
County of Clare

} SS.

Al Frattura being duly sworn, deposes and says that he is Publisher of the MORNING SUN, a public newspaper printed and published by Morning Star Publishing Company, in the Cities of Mt. Pleasant (Isabella County), Clare (Clare County) and Alma (Gratiot County) in said counties and circulated in said cities and counties, that the annexed printed notice was duly printed and published in said newspaper at least 1 in each week for 1 successive week(s), and that the first publication of said notice in said newspapers was on the 29th day of July, 2011 and that last publication of said notice in said newspapers was on the 29th day of July, 2011.

Al Frattura

Subscribed and sworn to before me the 29<sup>th</sup> day of July 2011.

Linda Kunkel

Notary Public

LINDA KUNKEL  
NOTARY PUBLIC MONTCALM CO., MI  
MY COMMISSION EXPIRES Dec 21, 2011  
ACTING IN ISABELLA COUNTY, MI

My commission expires \_\_\_\_\_

**NOTICE: Charter Township of Union,  
Isabella County, Michigan**  
**ORDINANCES 2011-03, Medical Marihuana Zoning  
Amendments**  
**And ORDINANCES 2011-04 Medical Marihuana Licensing  
Regulations**  
These Ordinances for the Charter Township of Union were presented for adoption by the Union Township Board of Trustees, at a regular meeting on Wednesday, July 13, 2011 at 7:00 p.m. at the Union Township Hall, 2010 S. Lincoln Rd., Mount Pleasant, Michigan. A true copy of these Ordinances may be obtained or inspected at the Union Township Hall, weekdays from 8:30 a.m. to 4:30 p.m., or on the Union Township Website <http://www.uniontownshipmi.com/>. Ordinances 2011-03 and 2011-04 shall be effective 7 days after the date of this notice.  
Peter Gallinat, Township Clerk  
John Barker, Supervisor