

CLEMENT TOWNSHIP
COUNTY OF GLADWIN, STATE OF MICHIGAN
ORDINANCE NO. 2023-01
Marihuana Establishments Licensing Ordinance

AN ORDINANCE OF CLEMENT TOWNSHIP, MICHIGAN TO REGULATE
MARIHUANA ESTABLISHMENTS.

CLEMENT TOWNSHIP ORDAINS:

A. Purpose, intent, and relationship to other laws and township liability and indemnification.

1. ***Purpose.*** The purpose of this Ordinance is to implement and establish a uniformed licensing and regulatory process for Medical Marihuana Facilities and Adult Use Marihuana Establishments, referred to herein as “marihuana facilities,” to the extent permissible under the provisions of the Michigan Medical Marihuana Act, (MCL 333.26421 et seq.), the Michigan Marihuana Facilities Licensing Act (MCL 333.27101 et seq.) the Marihuana Tracking Act (MCL 333.27901 et seq.), and the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951 et seq.) referred to herein as **the “Act(s)”**, so as to protect the public health, safety, and welfare of the residents of the Township by setting forth the manner in which marihuana facilities can be operated in the Township. Further, the purpose of this Ordinance is to:
 - a. Protect public health and safety through reasonable limitations on marihuana operations as they relate to noise, air and water quality, neighborhood and patient/customer safety, security for the facility and its personnel, and other health and safety concerns;
 - b. Protect residential neighborhoods by limiting the location and the concentration of types of marihuana facilities to specific areas of the Township;
 - c. Impose fees to defray and recover the cost to the Township of the administrative and enforcement costs associated with marihuana facilities;
 - d. Coordinate with laws and regulations that may be enacted by the state addressing marihuana; and
 - e. To restrict the issuance of marihuana facility licenses only to individuals and entities that have demonstrated an intent and ability to comply with this Ordinance.
2. ***Legislative intent.*** This Ordinance authorizes the establishment of marihuana facilities within the Township consistent with the Acts:
 - a. Marihuana cultivation and processing can have an impact on health, safety, and community resources, and this Ordinance is intended to permit marihuana cultivation and processing where it will have a minimal impact.

- b. The regulations for marihuana facilities are not adequate at the State level to address the impacts on the Township of the commercialization of marihuana, making it appropriate for local regulation of the impact of marihuana facilities on communities as provided for under the acts and any and all powers and immunities, expressed and implied which townships and their officers are, or hereafter may be, permitted to exercise or to provide for under the constitution and laws of the State.
 - c. Nothing in this Ordinance is intended to promote or condone the distribution, or possession of marihuana in violation of any applicable State law.
 - d. This Ordinance is to be construed to protect the public over marihuana facility interests. Operation of a marihuana facility is a revocable privilege and not a right in the Township. There is no property right for an individual or facility to engage or obtain a license to engage in marihuana as a commercial business in the Township.
3. ***Relationship to federal law.*** As of the effective date of this Ordinance, marihuana is classified as a schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, cultivate, produce, possess, dispense or transport marihuana. Nothing in this Ordinance is intended to grant immunity from any criminal prosecution under federal law.
4. ***Relationship to state law.*** As of the effective date of this Ordinance, as amended, and except as otherwise provided by the Acts and this Ordinance, a township licensee and its employees and agents who are operating within the scope of a valid state-issued operating license and a township-issued marihuana facility license are not subject to criminal or civil prosecution under township ordinances regulating marihuana.

Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacturing, possession, use, sale, distribution or transportation of marihuana in any form, that is not in strict compliance with the Acts, all applicable rules promulgated by the state regarding marihuana and all local laws, ordinances, rules and policies. Strict compliance with any applicable state law or regulation shall be deemed a requirement for the issuance or renewal of any license issued under this Ordinance, and noncompliance with any applicable state law or local law or regulation shall be grounds for revocation or nonrenewal of any license issued under the terms of this Ordinance.

5. ***Reservation of legislative prerogative.***
 - a. Clement Township reserves the right to amend or repeal this Ordinance in any manner, including, but not limited to, the complete elimination of any type or number of marihuana facilities authorized to operate in the Township.
 - b. Nothing in this Ordinance may be held or construed to grant or “grandfather” any marihuana facility a vested right, license, permit or privilege to continued operations within the Township, except as granted by approval through the application and/or application renewal process and as consistent with all other applicable laws, rules, regulations, and guidelines of the State of Michigan.

6. ***Township liability and indemnification.***

- a. By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the Township, its officers, elected officials, appointees, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of marihuana facility owners, operators, employees, clients or customers for a violation of local, state or federal laws, rules or regulations.
- b. By accepting a license issued pursuant to this Ordinance, all licensees agree to indemnify, defend and hold harmless the Township, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including, but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a licensed marihuana facility, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a marihuana facility or use of a product cultivated, processed, distributed or sold that is subject to the license, or any claim based on an alleged injury to business or property by reason of a claimed violation of the Federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c).
- c. By accepting a license issued pursuant to this Ordinance, a licensee agrees to indemnify, defend and hold harmless, the Township, its officers, elected officials, employees, appointees, and insurers, against all liability, claims, penalties, or demands arising on account of any alleged violation of the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq. or article 7 of the Michigan Public Health Code, MCL 33.7101 et seq.

B. *Definitions.* Through this Ordinance, the Township adopts all definitions contained in any of the state rules, regulations, statutes, and administrative code enacted for the purpose of regulating marihuana facilities. If any of the following definitions are amended by the State of Michigan in any state law related to marihuana facilities or marihuana establishments, the amended definition(s) adopted by the State of Michigan shall supersede the following definitions.

1. ***Department.*** The Department of Licensing and Regulatory Affairs or any successor agency authorized to regulate, issue, or administer marihuana licensing.
2. ***Adult-use marihuana establishment.*** An enterprise at a specific location at which a licensee is licensed to operate under Initiated Law 1 of 2018, Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.; including a marihuana grower, marihuana microbusiness, marihuana processor, marihuana retailer, marihuana secure transporter, or marihuana safety compliance facility **herein referred to as “marihuana facility” or “marihuana facilities.”**
 - a. ***Marihuana grower.*** A person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments/facilities.

- 1) ***Class A grower*** – maximum of one hundred (100) marihuana plants as defined in the MRTMA.
 - 2) ***Class B grower*** – maximum of five hundred (500) marihuana plants as defined in the MRTMA.
 - 3) ***Class C grower*** – maximum of two thousand (2,000) marihuana plants as defined in the MRTMA.
- b. ***Marihuana microbusiness***. A person licensed to cultivate not more than three hundred (300) marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are twenty-one (21) years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
 - c. ***Marihuana processor***. A person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
 - d. ***Marihuana retailer***. A person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are twenty-one (21) years of age or older.
 - e. ***Marihuana secure transporter***. A person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
 - f. ***Marihuana safety compliance facility***. A person licensed to test marihuana, including certification for potency and the presence of contaminants.
3. ***License***. A current and valid license for a Medical Marihuana Facility or Adult Use Marihuana Establishment issued by the State of Michigan or Clement Township.
 4. ***Licensee***. A person holding a current and valid license for a Medical Marihuana Facility or Adult Use Marihuana Establishment issued by the State of Michigan or Clement Township
 5. ***Medical marihuana facility***. An enterprise at a specific location at which a licensee is licensed to operate under 2016 PA 281, Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility **herein referred to as “marihuana facility” or “marihuana facilities.”** The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
 - a. ***Marihuana grower***. A licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a marihuana establishment/facility.

- 1) ***Class A grower*** – maximum of five hundred (500) marihuana plants as defined in the MMFLA.
 - 2) ***Class B grower*** – maximum of one thousand (1,000) marihuana plants as defined in the MMFLA.
 - 3) ***Class C grower*** – maximum of fifteen hundred (1,500) marihuana plants as defined in the MMFLA.
- b. ***Marihuana processor.*** A licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
 - c. ***Marihuana provisioning center.*** A licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center.
 - d. ***Marihuana safety compliance facility.*** A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
 - e. ***Marihuana secure transporter.*** A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
6. ***Marihuana.*** That term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.
 7. ***Permitted property or permitted location.*** The property comprised of a lot, parcel, or other designated unit of real property upon which the Medical Marihuana Facility or Adult Use Marihuana Establishment is located. A permitted property or permitted location is identified based on address.
 8. ***Township.*** Clement Township.

C. *Licensing of marihuana facilities.*

1. *Local licensing authority.*

- a. The Township Board is designated as the local licensing authority. The Township Board may, by resolution, delegate its authority or a portion of such authority to a new committee or other designee to act as the local licensing authority. The local licensing authority shall have the duty and authority pursuant to the Medical Marihuana Facilities Licensing Act (“MMFLA”) and Michigan Regulation and Taxation of Marihuana Act (“MRTMA”) in this Ordinance to grant or deny an application described in this Ordinance and to levy penalties against the licensee in the manner provided by law.
- b. The local license authority shall consider applications for new business premises, transfer of ownership, change of location, license premises modification, changes in trade name, and any other appropriate application.
- c. The local license authority shall have the power to promulgate rules and regulations concerning the procedure for hearings before the local licensing authority.
- d. The local license authority shall have the power to require any application or licensee to furnish such information to the authority as may be reasonably necessary in order for the authority to perform its duties and functions authorized by this Ordinance.
- e. The local license authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the productions of papers, books and records at any hearing in which the authority is authorized to conduct. Any subpoena shall be served in the same manner as a subpoena issued by a District Court of the State. The District Court Judge shall have the power and authority to enforce such subpoena.

2. ***Number of permitted locations.*** The maximum number of adult-use marihuana facility locations (based on address) allowed in the Township shall be two (2) as set forth below. The maximum number of medical marihuana facility locations (based on address) allowed in the Township shall be two (2) however such facilities are only permitted when established in conjunction with and located in the same location as an adult use marihuana retailer facility. A permit that is subject to renewal shall not count towards the number of available permits in the Township. Each location shall be issued a Special Use Permit. Multiple licenses may be issued per permitted location (based on address), if permitted to be co-located by the State of Michigan.

Type	# of Locations Allowed
Marihuana Grower (including Excess Growers)	Prohibited
Marihuana Processor	Prohibited
Marihuana Safety Compliance Facility	Prohibited
Secure Transporter	Prohibited

Marihuana Retailers (Adult Use)	2
Marihuana Provisioning Center (Medical). A Marihuana Provisioning Center (Medical) shall only be allowed if established in conjunction with and at the same location as a Marihuana Retailer (Adult Use)	2
Marihuana Microbusiness	Prohibited
Designated Consumption Center	Prohibited
Marihuana Event Organizer	Prohibited
Temporary Event License	Prohibited

3. **Location.** No marihuana facility shall be eligible to be issued a township license unless, at the time of application for such license, the location of the proposed facility complies with the allowable zoning districts and separation distances from other uses as set forth in the township Zoning Ordinance as required for the specific type of marihuana facility for which licensure is being sought.
4. **Operation at location provided on application only.** A licensee shall not operate a marihuana facility at any location in the Township other than the address provided in the application on file with the Township Clerk.
5. **Combined facilities, co-location, and stacking of licenses.** Multiple types of marihuana facilities may operate from a single location (based on address) if permitted by the Acts, State of Michigan rules, and the township Zoning Ordinance. Each type of marihuana facility operating from a single property address that has been issued a Special Use Permit is considered a separate license with separate licensing fees.
6. **License and annual fees required; Special use permit fee.**
 - a. No person shall establish or operate a marihuana facility in the Township without first having obtained, from the Township and the State of Michigan, a township license for each such marihuana facility to be operated. Township license certificates shall be kept current and publicly displayed within the marihuana facility. Failure to maintain or display a current township license certificate shall be a violation of this Ordinance.
 - b. **Licensing fee.** Upon licensure, the applicant shall pay a licensing fee. A licensing fee is an annual, nonrefundable licensing fee to defray the administrative and enforcement costs associated with marihuana facilities located in the Township of not more than \$5,000.00 per license or in an amount established by resolution adopted by the Township Board or in an amount established by state law.

- c. **Special use permit fee.** Upon the initial application, the applicant shall pay a separate Special Use Permit fee, which is not part of the licensing fee established in 6.b. This Special Use Permit fee is a non-refundable, one-time fee for the purpose of processing the Special Use application. If an amendment to the Special Use Permit is applied for because of a change in condition requested on the property or a new use being added, a new Special Use Permit fee will be charged.
- d. **Other fees.** The fees set forth herein shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or township ordinance, including, by way of example, any applicable zoning permit or building permits.
- e. **Criminal Liability.** The issuance of any license pursuant to this Ordinance does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law.
- f. **Term of license.** The term of each license shall be one (1) year.

7. Application requirements.

- a. **Application form.** A person seeking a township license pursuant to the Acts and the provisions of this Ordinance shall submit an application to the Township on forms provided by the Township. All documents submitted to the Township shall be submitted in both hardcopy and digital formats. Application shall include:
 - 1) Application fee of \$1,500 (which counts toward the total \$5,000 licensing fee). The application fee is non-refundable.
 - 2) The name, address, phone number and e-mail address of the proposed licensee (and all partners) and the proposed marihuana facility.
 - 3) Copy of a valid, unexpired driver's license or state-issued ID for the licensee and partners.
 - 4) Business and daily operations plan showing, in detail, the proposed plan of operation including:
 - i. A description of the type of marihuana facility proposed and the anticipated or actual number of employees.
 - ii. A security plan which shall include a general description of the security system(s), current centrally alarmed and monitored security system service agreement for the proposed licensed premises, and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.

- iii. A plan for the disposal of marihuana and related byproducts, chemicals, nutrients, and pesticides that will be used at the licensed property.
 - iv. An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of marihuana for the marihuana facility.
- 5) Whether any applicant has ever applied for or has 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 non-renewal including the licensing authority, the date each action was taken, and the reason for each action.
 - 6) Special Use Permit application (with a separate Special Use Permit fee) with a site plan and interior floor plan, upon submission of the initial township license application. For the initial competitive review, applicants should not submit a Special Use Permit application until they are selected as one (1) of the top two (2) highest scoring applications.
 - 7) All other documents, statements, or information requested in the official township application or by the reviewing body of the Township.
- b. ***Application for State approval.*** The applicant shall also provide a complete copy of their application for State approval.
 - c. ***Property information.*** Property information shall include proof of ownership or authorization to use the property for a marihuana facility:
 - 1) Authorization to use a property shall consist of a notarized statement from the owner of such property authorizing the use of the property for a marihuana facility, if the applicant is not the owner of the proposed licensed premises.
 - 2) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises.
8. ***Review process.***
 - a. ***Review period.***
 - 1) ***License quotas.*** License quotas are permitted to the extent regulated by the State of Michigan rules and regulations and are subject to change based on any potential rulings made by the State.
 - 2) ***Competitive review process.*** In order to seek the best candidates for marihuana facility licensure for the Township, the Township shall review, score, and rank the applications based upon their objective merits if the number of license applicants exceeds the number of licenses available.

- 3) ***Competitive Review Factors for Scoring.*** The Marihuana Review Committee shall create a competitive review scoring rubric outlining the factors and weight of criteria considered for the scoring of such applications and shall provide the final rubric for modification and final approval by the majority of the Township Board.
- 4) ***Application window.*** At the direction of the Township Board, the Township Board shall set an open application period of thirty (30) days during which the Township shall collect applications for marihuana licenses. In the event that more applications for licenses are submitted during this window than the number of licenses available, such licenses will be subject to competitive review by the Marihuana Review Committee.
- 5) ***Determination of completeness.*** Within fourteen (14) days of the end of the thirty (30) day open application window, the Zoning Administrator will determine if each application is complete and will notify the applicant(s) if there are deficiencies.
- 6) ***Submission of additional information.*** After receiving notification of deficiencies from the Zoning Administrator, the applicant shall have fourteen (14) days from the date of said notification to submit additional information.
- 7) ***Scoring of applications.*** At the end of this fourteen (14) day window for the submission of additional information, the Marihuana Review Committee shall have fourteen (14) days to complete the scoring process, if there are more applications for new locations submitted than available locations.
- 8) ***Determination of order.*** Once the applications are scored, individual applicants shall be notified of the order of their placement, and the top scored applicants that equal the number of available licenses identified in the application window may proceed through the license application process and Special Use permit process accordingly. Failure to complete the license application and Special Use permit process within six (6) months shall result in the denial of the application, and the next highest-scored applicant shall be afforded the opportunity to apply. If the next highest-scored applicant does not complete the Special Use permit process, the review process starts anew when the Township identifies a new application window. If the Township receives less applications than available permits, then upon the application being deemed complete, it may proceed through the license application process and Special Use permit process.
9. ***Issuance of township marihuana facility operating license.*** After obtaining a Special Use Permit and verification that the applicant's facility is constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule, or regulation at the permitted location, the Township Clerk shall issue a township marihuana facility license whose term shall expire and be due for renewal one (1) year from the date of issuance, provides that all of the following requirements have been satisfied:

- a. **Special use permit.** Each property address from which a marihuana facility is operated shall obtain a Special Use Permit.
- b. **Inspection.** In cases where a Building Permit is required, an occupancy inspection of the proposed marihuana facility by the County shall be required prior to the issuance of the township marihuana facility license in accordance with the currently adopted Michigan Building Code. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any marihuana and prior to the opening of the business to any patients or the public. The inspection is to verify that the business facility is constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule, or regulation.
- c. **State license required.** Maintaining a valid marihuana facility license issued by the State of Michigan is a condition for the issuance and maintenance of the township marihuana facility license issued under this Ordinance and the continued operation of a marihuana facility.
- d. **Conditions to issuance of license.** The Clerk's issuance of the license is conditioned that the following have been submitted, completed, and approved:
 - 1) Application on a form provided by the Township.
 - 2) Paid all licensing fees due to the Township.
 - 3) The entity(ies) has submitted an approved and fully authorized State of Michigan approved marihuana facility license or prequalification letter to the Township Clerk.
 - 4) An approved Special Use Permit from the Planning Commission.
 - 5) An approved certificate of occupancy from the applicable building official.
 - 6) All marihuana facilities shall obtain all other required permits or licenses related to the operation of the marihuana facility, including, without limitation, any development approvals or building permits required by any applicable code or ordinance prior to opening to the public.
 - 7) **Proof of insurance.** A licensee shall at all times, maintain full force and effect for duration of the license, workers compensation as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued from a company licensed to do business in the state having an AM Best rating of at least A-.

The policy shall name the Township and its officials and employees as additional insureds to the limits required by this Ordinance. A licensee or its insurance broker shall notify the Township of any cancellation or reduction in coverage within seven (7) days of receipt of insurer's notification to that effect. The licensee, permittee, or

lessee shall forthwith obtain and submit proof of substitute insurance to the Township Clerk within five business days in the event of expiration or cancellation of coverage.

- 8) Applicant will provide any additional information that the Township Clerk, law enforcement, fire chief, Zoning Administrator, building official, and/or township attorney or their designees reasonably determines to be necessary in connection with the investigation and review of the application.

10. *Denial of application.*

- a. The Township shall reject any application that does not meet the requirements of the Acts or this Ordinance, or any pertinent provision of any State of Michigan or Clement Township laws, rules or regulations.
- b. In accordance with the Acts, an applicant may be ineligible to receive a license under this Ordinance in any of the following circumstances:
 - 1) The applicant has knowingly submitted an application for license that contains false, misleading or fraudulent information or who has intentionally omitted pertinent information for the application for license.
 - 2) The applicant fails to meet other criteria established by the Acts or other pertinent law and/or obtain a state license.
 - 3) The applicant does not submit proof of “approved for prequalification” with the state, if applicable.
 - 4) An applicant that is in violation of a township ordinance or who is in tax default with the Township shall not be issued a marihuana facility license unless the applicant submits records which show a bona fide dispute.

c. *Denial of application – Appeal.*

- 1) Those applicants denied a license based on qualifications may appeal the decision within thirty (30) days of notification of denial. The Township Board shall hear and decide questions or requests for due process that arise after the Zoning Administrator has reviewed and provided a decision that the applicant wishes to further appeal.
- 2) The applicant must submit a narrative request for appeal that includes detailed information and all supporting documentation for any/all points they wish to have Township Board consider.
 - i. Within thirty (30) days of notification of appeal by the applicant, a review shall be conducted at a public meeting of the board and a concurring vote of a majority of the members of the full Township Board is necessary to reverse an order,

requirement, decision, or determination of an administrative official in the interpretation of this Ordinance.

- ii. The applicant must be present at the designated board meeting or forfeits their right to review.
- iii. The decision of the Township Board is final.

11. ***License forfeiture; time limit to commence business operations.*** In the event, that a marihuana facility does not commence operations within one (1) year of issuance of a township marihuana facility license, the license and Special Use Permit shall be deemed forfeited; the business may not commence operations unless extended by a majority vote of the full Township Board. At least thirty (30) days prior to forfeiture, the licensee may request an extension of the license and Special Use Permit up to one (1) year from Township Board. Only one (1) extension shall be granted to a marihuana facility.

12. ***License renewal.*** A valid marihuana facility license may be renewed on an annual basis by a renewal application upon a form provided by the Township and payment of annual license fees. If a violation has occurred, renewal shall be denied. If no violation has occurred, there is a reasonable assumption of approved renewal.

- a. ***Timeline of renewal application.*** An application to renew a marihuana facility license shall be filed at least ninety (90) days prior to the date of its expiration.
- b. ***Late fee.*** In the event, that the renewed application is not submitted in accordance with this Ordinance at least ninety (90) days prior to the date of expiration, the Township will assess a fixed late fee of \$500.
- c. ***Expiration.*** In the event, that an application is not received by the date of expiration, the license will be considered null and void and all operations must immediately cease by order of law enforcement. Renewal of the license after the date of expiration will require the same license fee as the original application.
- d. ***Notice of revocation.*** In the event, that an application is not received by the date of expiration, a notice of local revocation will be issued to the State of Michigan and the licensee will have to resubmit all documentation, fees, and receive all approvals as a new entity should they wish to reopen their business.
- e. ***Annual inspection.*** Prior to the issuance of a renewed marihuana facility license by the Township, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this Ordinance.

13. ***Transfer, sale, or purchase of license.*** In the event of a transfer, sale, or purchase of a license, the following applies:

- a. A marihuana facility license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the permitted property for which the license is issued. The licensees of a marihuana facility license are only those persons disclosed in the application or subsequently disclosed to the Township in accordance with

this Ordinance.

- b. Each operating license is exclusive to the licensee and permitted property. A licensee or any other person must submit an application for licensure with the Township Clerk before a license is transferred, sold, or purchased.
- c. Any entity that holds a township-issued license may transfer or sell their license to a qualifying applicant in compliance with any/all rules issued by the Township regarding the sale, transfer, or purchase of existing licenses.
 - 1) Any entity purchasing or receiving a transferred license must submit an application to the Township as a new applicant with all associated documentation and fees. Applications for renewal require the same application contents that are required of initial Applications.
 - 2) The applicant who is receiving the transfer or purchasing the license must have submitted a new application, license, and inspection fees and received all local and State of Michigan approvals, including “approved for prequalification” with the State of Michigan on all applications and associated documentation as well as all inspections as outlined in this Ordinance and the Acts prior to beginning or taking over operations.
- d. The attempted transfer, sale, or other conveyance of an interest in a license without township approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the Township.
- e. The following actions, without limitation, constitute transfer of ownership and require a new application, application fee, and Township Board approval:
 - 1) **Persons**. Any transfer of more than 1% of an ownership interest in an applicant or permit holder between persons constitutes a transfer of ownership.
 - 2) **Corporations**. Any transfer of more than 1% of stock or any change in principal officers or directors of any corporation holding a permit constitutes a transfer of ownership.
 - 3) **Limited Liability Companies**. Any transfer of more than 1% of membership interest or any change in members or change in the interest held by member(s) of any limited liability company holding a permit constitutes a transfer of ownership.
 - 4) **Partnerships**. Any change of more than 1% of a partnership interest or any change in general or managing partners of any partnership holding a permit constitutes a transfer of ownership.
 - 5) **Assets**. Any transfer of more than 1% of the assets held by an applicant or permit holder constitutes a transfer of ownership.

6) State marihuana license transfer.

f. *Effect of transfer.*

1) Immediately following the approval of a transfer of ownership by the Township, the transferee(s) will obtain all the interests, rights, obligations, and responsibilities of the previous license holder. Once a license holder has transferred his or her ownership interest, any privileges enjoyed by that license holder under this Ordinance are terminated.

2) For transfers, the renewal and termination dates of the license shall not change.

14. *License as revocable privilege.*

a. An operating license granted by this Ordinance is a revocable privilege granted by the Township and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest.

b. A licensee or any other person shall not lease, pledge, borrow or loan money against a license.

c. Any effort to circumvent the protocol listed in this Ordinance and/or the Township Zoning Ordinance will result in the immediate denial of application or complete revocation of the township-issued marihuana facility license.

15. *Nonrenewal, suspension, or revocation of license.*

a. The Township may, after notice, suspend, revoke, or refuse to renew a marihuana facility license for any of the following reasons:

1) The applicant or licensee, or his or her agent, manager, or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions, or provisions of this Ordinance, the Clement Township Zoning Ordinance, or with any applicable state or local law or regulation; or

2) The applicant or licensee, or his or her agent, manager, or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the State of Michigan or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held, subsequent to the date of issuance of the license; or

3) The marihuana facility has been operated in a manner that adversely affects the public health, safety, or welfare; or

4) The licensee has not submitted all necessary documentation and/or fees to renew their license.

- b. Evidence to support a finding under this Ordinance may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises or property occupied by the marihuana facility, a continuing pattern of criminal conduct directly related to or arising from the operation of the marihuana facility, or an ongoing nuisance condition emanating from or caused by the marihuana facility or any other concerns raised by township staff and/or other local, state or federal officials. Criminal conduct shall be limited to the violation of a state law or regulation or township ordinance.
- c. Any decision of nonrenewal, suspension, or revocation has the right to due process and may be eligible for appeal to the Township Board.
- d. In the event that the marihuana facility is granted a license but fails to substantially comply with its original site plan or Special Use Permit or operates inconsistent with the manner in which it was represented on the licensing application, the Township may revoke the license or may allow the licensee to present its case for modification of its original facility and license to the Township Board in the case of a licensing ordinance issue or to the Planning Commission in the case of a site plan/Special Use Permit issue. If the applicable body approves the changes, then the Township will take no further action regarding the licensee's license. If the licensee fails to address its substantial non-compliance with the applicable body, then the Township may revoke the license and may prohibit the licensee from applying for a marihuana facility license in the future.

D. *General requirements and restrictions.* All marihuana facilities operating within the Township shall be subject to the following general requirements and restrictions. To the extent there is a conflict between these requirements and restrictions and the Act(s), the Act(s) shall prevail.

1. ***General requirements.***

- a. ***Exterior signage.*** Marihuana facilities may only use exterior signage that is in compliance with the township's Zoning Ordinance regarding signs and Michigan law. Facilities may not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects. While not required, the township encourages licensees to erect signage which contains no pictures, photographs, drawings, or depictions of marihuana or marihuana paraphernalia and does not contain the following words: marihuana, marijuana, cannabis, weed, blunt, doobie, joint, hooch, hash, or other similar slang term for marihuana or marihuana-related products.
- b. ***Moveable, mobile, or transitory locations.*** No marihuana facilities shall be permitted to operate from a moveable, mobile or transitory location, except for a permitted and licensed secure transporter when engaged in the lawful transport of marihuana.
- c. ***Outdoor operation prohibited.*** All business operations of a marihuana facility must occur indoors. Curbside pick-up and delivery are permitted. Drive-through facilities are not permitted.
- d. ***Odors.*** Marihuana facilities may not emit noxious odors or fumes.

- e. **Waste Disposal.** The licensee shall use lawful methods of controlling waste or by-products from any permitted activities.
- f. **Artificial lighting.** Any artificial grow lighting must not be visible from neighboring properties, streets, or rights-of-way.
- g. **Security.** Marihuana facilities shall maintain a security system that meets State law requirements and shall also include Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the licensed premises.
- h. **Display of permit.** The permit issued by the Township and the license issued by the State shall be prominently displayed within the facility in a location where it can be easily viewed by the public.
- i. **Permits.** All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the permitted property in which electrical, wiring, lighting, or watering devices that support the cultivation, growing, harvesting, or testing of marihuana are located.
- j. **Transportation.** Marihuana may be transported by a Secure Transporter within the Township under this Ordinance.
- k. **Amounts of Marihuana.** The amount of marihuana on the permitted property and under the control of the permit holder, owner, or operator of the permitted premises shall not exceed that amount permitted by the state license or the license issued by the Township.

2. **Prohibited acts.**

- a. No marihuana may be smoked, used, or consumed at any marihuana facility.
- b. It shall be unlawful for any licensee to permit the consumption of alcohol beverages on the licensed premises.
- c. No facility may operate under a temporary certificate of occupancy. Marihuana facilities shall be in full compliance with all applicable legal requirements in order to operate.
- d. It shall be unlawful for any licensee holding a provisioning center or retailer license, or for any agent, manager, or employee thereof to:
 - 1) Sell, give, dispense, or otherwise distribute medical marihuana or adult use marihuana paraphernalia from any outdoor location.
 - 2) Sell, give, dispense, or otherwise distribute to any patient or primary caregiver, who is not a licensee, a more usable form of medical marihuana (including the useable medical marihuana equivalent of medical marihuana-infused products) within any

seven-day period of time than they are allowed by the MMMA to possess.

- 3) It shall be unlawful for a provisioning center or retailer to distribute marihuana or marihuana-infused products to a consumer free of charge.

3. ***Inspection of licensed premises.***

- a. Application for marihuana facility license or operation of a marihuana facility, or leasing property to a marihuana facility, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit law enforcement, or their designee, to conduct routine examinations and inspections of the marihuana facility to ensure compliance with this Ordinance.
 - b. During all business hours and other times when the premises are occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by law enforcement and any other township departments for the purpose of investigating and determining compliance with the provisions of this Ordinance and any other applicable state and local laws or regulations.
 - c. For the purposes of this Ordinance, examinations, and inspections of marihuana facilities and recordings from security cameras in such businesses are part of the routine policy of enforcement of this Ordinance for the purpose of protecting the public safety, individuals operating and using the services of the marihuana facilities, and the adjoining properties and neighborhoods.
 - d. A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct a law enforcement officer or a township inspector or investigator in the course of making an examination or inspection of the licensed premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this Ordinance, the Acts, or applicable state administrative rules.
- E. *Other laws remain applicable.*** To the extent the State of Michigan adopts, in the future, any additional or stricter law or regulation governing the sale or distribution of marihuana, the additional or stricter regulation shall control the establishment or operation of any marihuana facility in the Township. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license, and noncompliance with any applicable state law or regulation shall be grounds for the revocation or suspension of any license.
- F. *Grant of administrative authority.*** The Township Clerk is granted the power and duty, through its official designation, to implement fully and effectively, and administer the Township marihuana facility license application process and issuance of operating licenses issued by the Township under this Ordinance. The Township Clerk, after consultation with other township departments, may promulgate such rules as necessary to implement and administer this Ordinance.

G. *Violations and penalties.*

1. In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Ordinance, any person, including, but not limited to, any licensee, manager, or employee of a marihuana facility, or any customer of such business, who violates any of the provisions of this Ordinance, shall be guilty of a municipal civil infraction punishable in accordance with the Clement Township Civil Infraction Ordinance.
2. If a marihuana facility is operated in violation of the Act or any applicable ordinance, or if the licensee is found to have submitted false or misleading information in its permit application, the Township may revoke the permit for such facility to operate within the Township. The Township retains the right to alter the number and type of facilities authorized hereunder at any time. Any permit granted hereunder is a revocable privilege granted by the Township and is not a property or other legal right.
3. The licensee of any facility that is in violation of any requirement or restriction set forth in this Ordinance shall be responsible for a civil infraction with a penalty of \$500.00 together with any costs assessed by the court. Each day the violation occurs shall constitute a separate offense. The penalties set forth herein are non-exclusive and cumulative, and nothing herein shall be deemed to prevent the Township from enforcing any other applicable ordinance.
4. The owner of record, on-site manager, or tenant of any building, structure or premises, or part thereof, and any architect, builder, contractor, agent, or person who commits, participates in, assists in or maintains such violation may each be found guilty or responsible of a separate offense and suffer the penalties and forfeitures provided in subsections G.3 of this Ordinance, except as excluded from responsibility by state law.
5. In addition to any other remedies, the Township may institute proceedings for injunction, mandamus, abatement, or other appropriate remedies to prevent, enjoin, abate, or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, jail sentence or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.

H. *Severability.* The provisions of this Ordinance are hereby declared to be severable. If any part of this Ordinance is declared invalid for any reason by a competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after the date of its publication. Adopted by the Township Board, Township of Clement, Gladwin County, Michigan, at a regular meeting held on April 12, 2023. Published in the Gladwin Record on April 19, 2023.

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YEAS: 4

NAYS: 1

ABSENT/ABSTAIN:

ORDINANCE DECLARED ADOPTED

Karon Hoffman, Supervisor

4-12-23
Date

Eric House, Clerk

4-12-23
Date