

**CHARTER TOWNSHIP OF PORTAGE  
COUNTY OF HOUGHTON, STATE OF MICHIGAN**

**ORDINANCE NO. 145  
ADOPTED: December 14, 2017  
EFFECTIVE: December 15, 2017**

**MEDICAL MARIHUANA FACILITIES ORDINANCE**

**FINDING OF EMERGENCY**

The Charter Township of Portage (hereinafter referred to as the “Township) Board finds that the State of Michigan published Emergency Rules to implement Public Act 281 of 2016, as may be amended, filed with the Secretary of State on December 4, 2107, did not allow sufficient time for the Township to evaluate these rules and adopt a permanent Medical Marihuana Facilities Ordinance prior to the December 15, 2017 effective date of Public Act 281. The Township finds that existing patients using marihuana and its extracts for relief of various chronic medical conditions may be denied access to their medicine through lawful means if existing caregivers are unable to operate under the Emergency Rules cited above. The necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate an emergency ordinance to preserve the public, health, safety, or welfare.

An ordinance to provide a title for the ordinance; to define words; to authorize the operation of and provide regulations for medical marihuana facilities in Charter Township of Portage pursuant to Public Act 281 of 2016, as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

**THE CHARTER TOWNSHIP OF PORTAGE  
HOUGHTON COUNTY, MICHIGAN**

**ORDAINS:**

**SECTION I  
TITLE**

This ordinance shall be known as and may be cited as the Portage Charter Township Medical Marihuana Facilities Ordinance.

**SECTION II  
DEFINITIONS**

Words used herein shall have the definitions as provided for in PA 281 of 2016, as may be amended.

**SECTION III  
AUTHORIZED MEDICAL MARIHUANA FACILITIES**

1. The following medical marihuana facilities may be authorized to operate within the Township by the holder of a state operating license, subject to compliance with PA 281 of 2016, as may be amended, the Rules promulgated thereunder and this ordinance:

Three (3) provisioning centers shall be authorized in the Township.

2. The operation of these various facilities is restricted to the following districts of the Portage Charter Township Zoning Ordinance:

a) B2 General Business Dist. b) M-1 General Manufacturing Dist. c) MU Mixed Use Dist.

3. Unlicensed marihuana growing, processing and dispensing operations and unlicensed medical marihuana facilities are forbidden in all zoning districts.

4. As permitted by law and regulation, various facilities may be located on the same site and within the same structure if all applicable regulations are met.

5. On and after December 15, 2017 the Township shall accept applications for authorization to operate a medical marihuana facility within the Township. Application shall be made on a Township form and must be submitted to the Township Clerk and/or other designee of the Township Board (hereinafter referred to as "Clerk"). Once the Clerk receives a complete application including the initial annual medical marihuana facility fee, the application shall be time and date stamped. Completed applications shall be considered for authorization in consecutive time and date stamped order. Upon consideration, if the facility type authorization is available within the number specified above, then the applicant shall receive conditional authorization to operate such a medical marihuana facility within the Township. Once the limit on the number of authorized facilities is conditionally reached, then any additional complete applications shall be held in consecutive time and date stamped order for future conditional authorization. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Clerk at any time and receive a refund of the initial, annual medical marihuana fee submitted.

6. Within thirty days from conditional authorization from the Township or from December 15, 2017, whichever is later, the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied for prequalification from the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Clerk.

7. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk.

8. A conditionally authorized applicant shall receive full authorization from the Township to operate the medical marihuana facility within the Township upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the medical marihuana facility in the Township and the applicant has met all other requirements of this ordinance for operation including but not limited to any zoning approval for the location of the facility within the Township.

9. If a conditionally authorized applicant fails to obtain full authorization from the Township within one year from the date of conditional authorization, then such conditional authorization shall be canceled by the Clerk. The Township Board shall have authority to extend the deadline to obtain full authorization for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Township Board finding good cause for the extension.

**SECTION IV**  
**GENERAL REGULATIONS REGARDING**  
**AUTHORIZED MEDICAL MARIHUANA FACILITIES**

1. An authorized medical marihuana facility shall only be operated within the Township by the holder of a state operating license issued pursuant to PA 281 of 2016, as may be amended, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.

2. Prior to operating an authorized medical marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township zoning ordinance regulations. The facility shall only be operated as long as it remains in compliance with all Township zoning ordinance regulations.
3. Prior to operating an authorized medical marihuana facility within the Township pursuant to a state operating license, the facility must comply with all Township construction and building ordinances, all other Township ordinances specifically regulating medical marihuana facilities, and generally applicable Township police power ordinances. The facility shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.
4. An authorized medical marihuana facility shall consent to inspection of the facility by Township officials and/or by the County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.
5. No odors or fumes associated with the facility operation shall be detectable beyond the exterior limits of the structure or enclosure.
6. Solid wastes must be handled in accordance with existing laws and regulations. They must not have an adverse effect on public assets.
7. Liquid chemical and organic wastes must be handled in accordance with existing laws and regulations. They must not have an adverse effect on public assets, especially water treatment facilities.
8. If at any time an authorized medical marihuana facility violates this ordinance the Township Board may request that the state revoke or refrain from renewing the facility's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the Township authorization. Any fees paid to the Township are forfeit.
9. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized medical facility a vested right, license, privilege or permit to continued authorization from the Township for operations marihuana within the Township.
10. The Township expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized medical marihuana facilities authorized to operate within the Township.

**SECTION V**  
**ANNUAL MEDICAL MARIHUANA FACILITY FEE**

There is hereby established an annual nonrefundable Township medical marhjuana facility fee in the amount of \$5,000 for each authorized medical marihuana facility within the Township, to help defray administrative and enforcement costs associated therewith. Authorized medical marihuana facilities identified in Section III, above, are individual entities regardless of ownership or management. An initial annual non-refundable medical marihuana facility fee of \$5,000 shall be payable at the time of application for Township authorization and thereafter the same non-refundable amount shall be payable each year by the anniversary of the date of full Township authorization to operate the medical facility. marihuana

**SECTION VI**  
**VIOLATIONS AND PENALTIES**

1. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court. For purposes of this section, "subsequent offenses" means a violation of the provisions of this ordinance

committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.

3. Each day during which any violation continues shall be deemed a separate, subsequent offense.

4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.

5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person (s) as designated by the Township Board from time to time.

**SECTION VII**  
**SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing medical marihuana facilities pursuant to PA 281 of 2016, as may be amended.

**SECTION VIII**  
**REPEAL**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

**SECTION IX**  
**EFFECTIVE DATE**

This emergency ordinance shall take effect immediately upon adoption.

**SECTION X**  
**EXPIRATION**

This emergency ordinance expires June 15, 2018 or upon the effective date of a permanent Portage Charter Township Medical Marihuana Facilities Ordinance, which occurs first.

CHARTER TOWNSHIP OF PORTAGE

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Tressa Alvarado, Clerk

ATTEST

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Bruce Petersen, Supervisor