

FIFE LAKE TOWNSHIP
MEDICAL MARIHUANA FACILITIES ORDINANCE
Ordinance No. MMFO-2109-2 of 2019

AN ORDINANCE PURSUANT TO SECTION 205(1) OF THE
MEDICAL MARIHUANA FACILITIES LICENSING ACT, BEING MCL
333.27205(1), TO AUTHORIZE SOME, BUT NOT ALL, MEDICAL
MARIHUANA FACILITIES WITHIN FIFE LAKE TOWNSHIP

FIFE LAKE TOWNSHIP HEREBY ORDAINS:

Section 1. Purposes.

- (a) It is the intent of this Ordinance to authorize the establishment of some, but not all, medical marihuana facilities in the Township and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the Township by mitigating potential impacts on surrounding properties and persons.
- (b) Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act, and all other applicable rules promulgated by the state of Michigan.
- (c) Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution under any applicable federal laws.

Section 2. Definitions. As used in this Ordinance,

“Act” means the Medical Marihuana Facilities Licensing Act, Act 281 of the Public Acts of 2016, as amended, being MCL 333.27101, *et seq.*

“Applicant” means a person who applies for a license under this Ordinance and who intends to apply or has applied for a state operating license under the Act and includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

“Class A Grower” means a grower that is limited by the Act to grow no more than 500 marihuana plants.

“Grower” means that term as defined from time to time in Section 102 of the Act, being MCL 333.27102.

“Marihuana” means that term as defined from time to time in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106.

“Marihuana Facility” means that term as defined from time to time in Section 102 of the Act, being MCL 333.27102.

“MMF Administrator” means the Fife Lake Township Zoning Administrator, or other official designated by the Fife Lake Township Board.

“Person” means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

“Processor” means that term as defined from time to time in Section 102 of the Act, being MCL 333.27102.

“Provisioning Center” means that term as defined from time to time in Section 102 of the Act, being MCL 333.27102.

“Safety Compliance Facility” means that term as defined from time to time in Section 102 of the Act, being MCL 333.27102.

“Secure Transporter” means that term as defined from time to time in Section 102 of the Act, being MCL 333.27102.

“State Operating License” means that term as defined from time to time in Section 102 of the Act, being MCL 333.27102.

Section 3. Medical Marihuana Facilities Authorized.

Pursuant to Section 205(1) of the Act, Fife Lake Township hereby authorizes two (2) Class A growers, two (2) processors, two (2) provisioning centers, zero (0) safety compliance facilities, and zero (0) secure transporters to operate within Fife Lake Township if and only if the applicant secures a state operating license from the state under the Act and a permit from the Township under this Ordinance.

Section 4. Application Requirements, Fees, and Applicant Selection Procedures.

- (a) An applicant seeking a permit under this Ordinance shall submit a complete application to the MMF Administrator and pay the required nonrefundable fee, which shall be determined from time to time by resolution of the Township Board. Each applicant shall be limited to one (1) application for each type of facility sought that is valid at any given time. Due to the limited number of facilities authorized under this Ordinance, an applicant shall be eligible for a conditional

permit for each type facility sought based on a random drawing conducted by the MMF Administrator under the terms and conditions of this section. The selection of an applicant through the random drawing, however, shall not be construed as any legal right to the conditional permit issued under this Ordinance. Rather, the selection of an applicant merely allows the successful applicant to continue the application process. The successful applicant shall be required to comply with all of the standards for approval provided in Section 5 of this Ordinance before receiving the conditional permit authorized under that section. Finally, the successful applicant shall complete the application process within thirty (30) days from the date of applicant's selection, or the application shall be deemed abandoned and may be denied by the MMF Administrator on that basis.

- (b) All applications for a conditional permit to operate a Class A grower, processor, or provisioning center shall include all of the following information and any other information reasonably necessary for the MMF Administrator to determine whether the applicable standards for approval provided in Section 5 have been met.
- (1) The name and business address of the applicant.
 - (2) The names and addresses of all officers, directors, and managerial employees of the applicant and all persons who hold any direct or indirect ownership interest in the applicant.
 - (3) The type of proposed medical marijuana facility for which a permit is being sought under this Ordinance.
 - (4) The address of the location at which the proposed medical marijuana facility will be located.
 - (5) Proof of ownership of, or the legal right to occupy, the building in which the proposed medical marijuana facility will be located.
 - (6) A written business plan for the proposed medical marijuana facility.
 - (7) A copy of the marijuana facility plan, security plan, and marijuana product destruction and waste management plan for the proposed medical marijuana facility that were filed with the state as part of the applicant's state application(s) under the Act.
 - (8) A written sign plan specifying the location, size, and lighting of the proposed sign to be placed on the property or buildings of the proposed medical marijuana facility.

- (c) The MMF Administrator shall within twenty-one (21) days after an application is filed review the application and information submitted to determine if all required information was supplied (i.e., whether the application is administratively complete). Each application that is administratively complete shall be valid for one (1) year from the date the MMF Administrator determines it is administratively complete. If the MMF Administrator determines that all required information was not supplied, he or she shall send written notification to the applicant specifying the deficiencies. If the deficiencies are not corrected within fourteen (14) days of the notice from the MMF Administrator then the application shall be deemed administratively incomplete and may not be included in the application pool described in subsection (d) below.
- (d) Once the MMF Administrator determines that an application is administratively complete, he or she shall place that application into an administrative category to be known as the Medical Marihuana Facility Application Pool. There shall be a Medical Marihuana Facility Application Pool for each type of medical marihuana facility authorized under this Ordinance.
- (e) When a one (1) or more Class A grower, processor, or provisioning center facility becomes available under this Ordinance, the MMF Administrator shall conduct a random drawing to select a successful applicant(s) from the Medical Marihuana Facility Application Pool for the type of facility sought. To be eligible to be included in the Medical Marihuana Facility Application Pool for the type of facility sought, each administratively complete application shall be no older than one (1) year from the date the MMF Administrator determined it was administratively complete and shall be filed with the MMF Administrator no less than thirty (30) days before the random drawing date. The MMF Administrator shall then select the time, date, and place for the random drawing, publish a notice specifying the time, date, and location for the random drawing in a newspaper of general circulation within the Township not less than forty-five (45) days before the drawing date, and shall provide written notice of the time, date, and place for the random drawing to each applicant whose application is in the Medical Marihuana Facility Application Pool from which the successful applicant(s) will be selected. The MMF Administrator shall conduct the random drawing in the presence of two (2) witnesses to be selected by the Township Board and any applicants that attend the random drawing. The Zoning Administrator shall record in writing the results of the random drawing and the two (2) witnesses shall attest to those results in writing.

Section 5. Standards for Approval.

The MMF Administrator shall approve and issue a conditional permit for each medical marihuana facility for which a permit is sought under this Ordinance when all of the following applicable standards are met:

- (a) The proposed medical marijuana facility is located in an area of the township outside the Village of Fife Lake zoned for that use under the Fife Lake Township Zoning Ordinance.
- (b) No more than one (1) sign is proposed for the medical marijuana facility that fully complies with all requirements of the Fife Lake Township Zoning Ordinance for the zoning district in which it is located.
- (c) Any artificial lighting utilized to grow marijuana shall be shielded to prevent glare and must not be visible from neighboring properties and from any street, sidewalk, park, or other public place.
- (d) Processors and provisioning centers shall be operated or open for business only between 8:00 a.m. and 8:00 p.m., and each shall be closed all day Sunday.
- (e) No marijuana shall be consumed, smoked, or ingested by an employee or qualifying patient by any method in a Class A grower, processor, or provisioning center facility.
- (f) A proposed medical marijuana facility shall not be located within 500 feet from any of the buildings or land uses listed below that were in existence at the time the Class A grower, processor, and provisioning center facility was established. This distance shall be measured between the facility building and the other buildings or land uses.
 - (1) Any church or place of worship and its accessory structures.
 - (2) Any public or private school and its accessory structures.
 - (3) Any preschool, child care or day care facility and its accessory structures.
 - (4) Any public facility, such as libraries, museums, parks (except the MDOT roadside park located on US 131), playgrounds, public beaches, and other public places where children may congregate.
 - (5) Any single-family dwelling, two-family dwelling, multi-family dwelling, and accessory buildings to those residential land uses.
- (g) The applicant agrees to indemnify Fife Lake Township, its officers, board members, successors, assigns, agents, servants, employees, and insurance companies from any damages, legal fees or expenses, awards, demands, rights, causes of action that arise out of or grow out of applicant's operation of any medical marijuana facilities within Fife Lake Township. This provision shall apply to any and all claims by either party, its public officials, officers, board

members, agents, servants, employees, successors or assigns or to any and all claims by any third party.

Section 6. Conditional Permit; Duration; Extension; Re-application; No Transfer.

- (a) A conditional permit issued under this Ordinance shall not authorize the establishment of any medical marihuana facility within the township, but shall be expressly conditioned on the state actually issuing to the applicant a state operating license under the Act and the township Zoning Administrator issuing a zoning permit for each medical marihuana facility for which a permit was issued under this Ordinance.
- (b) A conditional permit issued under this Ordinance shall be valid for a period of six (6) months from the date it is issued. An applicant may obtain one (1) extension of the conditional permit for an additional six (6) months if such request for the extension is filed with MMF Administrator before the expiration of the conditional permit and the applicant demonstrates that the application for a state operating license remains pending with the state.
- (c) If a conditional permit expires as provided in this section, then the applicant may re-apply for a new conditional permit following the same procedures as for a new conditional permit and the payment of a new application fee.
- (d) A conditional permit issued under this Ordinance shall not be transferred to any other applicant or person.

Section 6. Appeal.

Any person aggrieved by a decision of the MMF Administrator may appeal that decision to the Township Board following the procedures of the Fife Lake Township Zoning Ordinance, as amended, for appeals to the Zoning Board of Appeals. Any such appeal shall be filed within thirty (30) days from the date of the decision from which the appeal is taken. During the appeal, the Township Board shall conduct a *de novo* hearing of the matter and to that end shall have all the powers of the MMF Administrator. In rendering its decision, the Township Board shall receive and consider evidence and data relevant to the case and shall issue its decision in writing within a reasonable period of time after receiving all evidence and data in the case. The decision of the Township Board shall then be sent promptly to the applicant, to the person who filed the appeal (if different than the applicant), and to the MMF Administrator.

Section 7. Spacing Variances.

- (a) If a proposed medical marihuana facility will not meet the spacing requirements in Section 5(f) of this Ordinance, then the applicant may seek a variance from those spacing requirements from the Township Board pursuant to the procedures of this section.
- (b) The Township Board shall grant a variance from the spacing requirements in Section 5(f) of this Ordinance, if the Board finds that all the following standards are met:
 - (1) The building or land use located within 500 feet of the proposed medical marihuana facility is no longer used for its intended purpose and is not reasonably likely to be used for its intended purpose in the near future.
 - (2) The proposed medical marihuana facility cannot reasonably be located on the property outside the 500 feet spacing requirement.
 - (3) The spacing variance granted shall be the minimum variance that will make possible the reasonable use of the parcel on which the proposed medical marihuana facility will be located.
 - (4) The granting of the spacing variance shall not be injurious or otherwise detrimental to adjoining property or to the general health, safety, and general welfare of the Township.
- (c) The Township Board shall follow the procedures of the Fife Lake Township Zoning Ordinance relating to variances when deciding whether to grant a spacing variance under this section.
- (e) In granting any spacing variance under this Ordinance, the Township Board may prescribe appropriate conditions and safeguards in order to ensure that the proposed medical marihuana facility complies with the spacing variance granted under this Ordinance. Violations of such conditions and safeguards shall be deemed a violation of this Ordinance, punishable under Section 9 of this Ordinance.

Section 8. Nuisance

A violation of this Ordinance is hereby declared to be a public nuisance, a nuisance per se and is hereby further declared to be offensive to the public health, safety and welfare.

Section 9. Violations.

Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered a separate violation.

Section 10. Enforcement Officials.

The Zoning Administrator, and other officials designated by the Township Board, are hereby designated as the authorized officials to issue municipal civil infractions directing alleged violators of this Ordinance to appear in court.

Section 11. Civil Action

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 12. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 13. Effective Date.

This Ordinance shall become effective on December 1, 2019 or thirty (30) days after being published in a newspaper of general circulation within the Township, whichever is later.

Ordinance No. MMFO-2019-2 was adopted on the 24th day of October, 2019, by the Fife Lake Township Board as follows:

Motion by: Supervisor Linda Forwerck

Seconded by: Trustee Dawn Zimmerman

Yeas: 3

Nays: 0

Absent: Sorrow, Pearson

Terry Street, Clerk

Linda Forwerck, Supervisor

I certify that this is a true copy of Ordinance No. MMFO-2019-2 that was adopted at a regular meeting of the Fife Lake Township Board on October 24, 2019 and published in the Traverse City Record Eagle on November 1, 2019.

Terry Street, Clerk

Dated: _____

Terry Street, Clerk