

**Township of Keene**  
**County of Ionia, Michigan**

**Ordinance No. 2019-2**

**Adopted Date:** 5-14-19

**Effective Date:** \_\_\_\_\_

At a regular meeting of the Township Board of Keene Township, Ionia County, Michigan, held at the Township Hall in said Township on this 14 day of May, 2019 at 7:00 pm.

Present: Cory Wojcik, Kara Albert, Hawey Noon, Robert Simpson & Nancy Fenevick

Absent: φ

The following ordinance was offered by Board Member Cory Wojcik and supported by Kara Albert:

**Medical Marihuana Facilities Ordinance**

**Section 1: Short Title**

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

**Section 2: Definitions**

As used in this ordinance:

- a. "Act 281" or the "Act" means Michigan Medical Marihuana Facilities Licensing Act, Act 281 of the Public Acts of Michigan of 2016, as amended.
- b. "Applicant" means a person who applies or applied for a state operating license and a Township marihuana facility permit.

- c. "Grower means a licensee that is a commercial entity that cultivates, dries, trims or cures and packages marihuana for sale to a processor or provisioning center.
- d. "Licensee" means a person holding a state operating license.
- e. "Marihuana" means that term as defined in Section 7106 of the Michigan Public Health Code.
- f. "Marihuana Facility" means a licensee's location and operations under the licensee's state operating license.
- g. "Marihuana Licensing Board" means the Medical Marihuana Licensing Board established under Section 301 of Act 281.
- h. "Marihuana Plant" means any plant of the species *Cannabis sativa* L.
- i. "Marihuana-Infused Product" means an edible substance or similar product containing marihuana that is intended for human consumption in a manner other than smoke inhalation.
- j. "Michigan Medical Marihuana Act" or "MMMA" means Michigan Medical Marihuana Act of 2008, as amended.
- k. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legal entity.
- l. "Processor" means a licensee that is a commercial entity 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.
- m. "Provisioning Center" means that term as defined in Section 102 of Act 281.
- n. "Registered Primary Caregiver" means a primary caregiver who has been issued a current registry identification card under the MMMA.
- o. "Registry Qualifying Patient" means a qualifying patient who has been issued a current registry identification card under the MMMA.
- p. "Registry Identification Card" means that term as defined in Section 3 of the MMMA.
- q. "Rules" means the rules promulgated under the Michigan Administrative Procedures Act, to implement Act 281, including any Emergency Rules.

- r. "Safety Compliance Facility" means that term as defined in Section 102 of Act 281.
- s. "Secured Transporter" means that term defined in Section 102 of Act 281.
- t. "State Operating License" means a license that is issued under Act 281 that allows the licensee to operate as one of the following, specified in the license: a grower, processor, secured transporter, provisioning center or safety compliance facility.
- u. "Statewide Monitoring System" means the Internet-based, statewide database established and maintained by the State Department of Licensing and Regulatory Affairs under the Michigan Marihuana Tracking Act, Act 282 of the Public Acts of Michigan of 2016, as amended, for the purpose of enabling authorized parties and agencies to confirm or verify relevant information with respect to medical marihuana uses authorized by Act 281.
- v. "Usable Marihuana" means the dried leaves, flowers, plant resin or extract of the marihuana plant, but does not include the seeds, stalks and roots of the plant.

### **Section 3: Authorized Marihuana Facilities**

- a. Two marihuana facilities may be established and operated by a licensee in the Township, subject to compliance with Act 281, the Rules and this ordinance. The permitted marihuana facilities shall only be a Class A grower (500 marihuana plants).
- b. Notwithstanding the above, the growers shall not be established at the same location.
- c. No provision center, safety compliance center or secured transporter may be established or operated by a licensee in the Township, and such marihuana facilities are expressly prohibited in the township. Provided, however that this shall not prevent a secured transporter from traveling within the Township to transport marihuana from a grower which has been permitted under this ordinance.
- d. A marihuana facility shall be established and operated only by a person who has been issued a state operating license. The facility shall be

operated only so long as the state operating license remains in effect and only in accordance with the terms of the license.

- e. A marihuana facility shall be established only by a person who has been issued a Township permit under the terms of this ordinance. The facility shall be operated only so long as the Township permit remains in effect and only in accordance with the terms of the permit.

#### **Section 4: Township Marihuana Grower Permit**

- a. A marihuana grower shall not grow a total of more than 500 plants.
- b. A marihuana grower permit shall be valid so long as the grower's state operating license is in effect.
- c. A grower shall operate only so long as its Township permit is in effect and only in accordance with the terms of the permit and this ordinance.
- d. A grower shall operate only in a zone district which permits marihuana grower use under the terms of the Township zoning ordinance.
- e. A grower shall operate only on the property and at the address specified in the grower's permit.
- f. A grower shall maintain compliance with all applicable building codes, zoning requirements, and all requirements of the Act of Rules for the construction, design and operation of the marihuana facility.
- g. A grower's operation shall be conducted within an enclosed building.
- h. A grower may sell marihuana seeds or plants to another grower. Such plants or seeds shall be transferred to another grower by means of secured transporter.
- i. A grower shall sell marihuana, other than marihuana seed, only to a processor or provisioning center.
- j. A grower shall transfer marihuana to a processor only by means of a secured transporter.
- k. A grower shall not have ownership interest or a financial interest in a secured transporter or a safety compliance facility.
- l. During that time that a grower holds a grower permit, it shall not be a registered primary caregiver, nor shall it employ a person who is then a registered primary caregiver.

- m. A grower shall enter all marihuana transactions, its current marihuana inventory and other required information into the statewide monitoring system as required by the Act.

### **Section 5: Zoning Ordinance Compliance.**

- a. The Township zoning ordinance may specify the zone districts in which a marihuana facility may be located and operated. A marihuana facility shall be established and operated only in a zone district that permits that type of marihuana facility as defined by Act 281. No permit shall be issued to a marihuana facility located or operated in any zone district which does not expressly permit it, notwithstanding any use variance or similar zoning approval.
- b. A marihuana facility shall not be operated except in compliance with relevant zoning ordinance requirements, and upon receipt of site plan approval as applicable. Site plan approval may be issued on the subsequent condition that the marihuana facility receive appropriate licensing under Act 281 and a permit under this ordinance.
- c. A marihuana facility shall not be conducted as a home occupation under the terms of the zoning ordinance.

### **Section 6: Township Marihuana Facility Permit Application.**

- a. A marihuana facility shall be established and operated in the Township only if the facility obtains a permit under the terms of this ordinance.
- b. A person shall apply for a marihuana facility permit on a Township application form and shall pay a non-refundable fee of \$3,000 and shall make a required escrow deposit of \$2000 for payment of Township expenses such as review services of the Township Planner, Attorney or Engineer in the matter, at the time of application. Any remaining escrow deposit will be returned to the applicant.
- c. The application shall include the following information and other submittals, and such other information as the Township may require in order to verify compliance with the Act 281, the Rules and this ordinance.

1. The applicant's name, home and business address, email address, and telephone number(s).
  2. The address, legal description and permanent parcel number of the property on which the marihuana facility is proposed to be located.
  3. The name and address of the owner of record of the property on which the marihuana facility is to located, if not owned by the applicant, and a signed copy of the lease or other legal instrument whereby the owner has permitted the applicant to establish and operate the proposed marihuana facility on the property.
  4. A copy of the applicant's current state operating license.
  5. Proof that the facility has received pre-licensure or other approval from the Bureau of Fire Safety or other state agencies in accordance with the Act and Rules.
  6. Proof of compliance with all applicable zoning and building codes or other applicable codes.
- d. Information provided to the Township in connection with the licensing may be exempt from the disclosure under the Freedom of Information Act, according to the Section 205 of Act 281.

## **Section 7: Review and Approval of Application.**

- a. The application shall be submitted to the Township Clerk. It shall be subject to the Township Board approval, consistent with this ordinance, Act 281 and the Rules.
- b. Upon receiving an application, the Clerk shall review it to determine whether it is complete under the terms hereof and the Act. If it is not complete, the Clerk shall return the application, the application fee and any escrow deposit to the applicant. An incomplete application that is returned by the Clerk shall not be deemed submitted and shall not have precedence of consideration over any other application.
- c. Upon determining that an application is complete, the clerk shall assign a number to it, based on the order in which it was received, and arrange for it to be presented to the Township Board. Other applications, if any

may be received but they shall be reviewed for completeness only in the order received, and only if a permit for the same type of marihuana facility is then available.

- d. The Township Board shall review an application and approve it only if it satisfies all of the following standards. Provided, however, the Township Board may, but is not required to, give conditional approval pending subsequent satisfaction of standards (4) and/or (5) within a timeframe specified by the Board.
  1. The marihuana facility has been approved for current state operating license for the type and capacity proposed.
  2. The request is for the type of facility permitted by this ordinance, and is within the quota for the number of marihuana facilities permitted by this ordinance.
  3. The marihuana facility complies with this ordinance.
  4. The location of the marihuana facility is consistent with the provisions of the Township zoning ordinance, and has received all applicable zoning approvals.
  5. The facility has received all applicable approvals from the Bureau of Fire Safety or other state agencies with jurisdiction.
  6. In case of renewal, there have been no material violations of the permit or this ordinance.
- e. If the application is approved, the Township Board shall authorize and direct the Clerk to issue a marihuana facility permit to the applicant on a Township permit form for such purpose, after the applicant has paid the marihuana facility fee for the one year duration of the permit. If the applicant has not paid the facility fee within 10 days after written notice that the application has been approved, the application shall no longer be approved and the applicant shall be notified in writing accordingly. The permit shall include terms and conditions consistent with this ordinance, any conditions imposed by the Township Board, and such other provisions are as relevant to the type of marihuana facility, the location thereof and anticipated operations.
- f. If the application is denied, the Clerk shall so inform the applicant by letter, which shall include the reasons for the denial.

- g. An applicant shall have the right to appeal a permit denial in the manner provided by law.

## **Section 8: Permit Term and Renewal; Inspection; Transfer.**

- a. The permit shall be for a period not longer than one year, corresponding with the term of the state operating license.
- b. The permit shall be renewed annually. A permit holder desiring renewal shall apply for the same by completing a Township form for such purposes, shall pay any required renewal fee and shall make any required escrow deposit for reimbursement of Township expenses in the matter.
- c. With the renewal application, the applicant shall submit either a revised site plan, if any of the elements of the previously submitted site plan have changed, or otherwise the applicant shall submit a statement that the previous site plan remains accurate as to the matters depicted therein.
- d. The Township Board shall consider the renewal application in the same manner and under the same requirements as for an original application, except that in considering the renewal, the Board may consider any violations on the part of the applicant during the previous period of the permit.
- e. The Board shall approve the renewal application, reject it or approve it with conditions. If approved, a new permit, for a period of one year, shall be issued to the applicant. If rejected, the Clerk shall state the grounds thereof in the letter to the applicant. Any such rejection shall be appealable as provided by law.
- f. Upon receiving a renewed permit, the applicant shall pay to the Township the annual marihuana facility fee. The renewed permit shall not be valid until the fee is paid.
- g. By accepting a permit, the applicant shall consent to inspection of the applicant's marihuana facility by Township officials and/or by the Ionia County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance and the Act. Such inspections may



include examination of the applicant's submissions of information into the statewide monitoring system.

- h. The Township permit issued under this ordinance is not transferable. If the Marihuana Licensing Board approves the transfer of a license, such transferee shall apply for a Township permit upon state approval, and the Township shall review such application in accordance with the standards provided herein for a new permit.

### **Section 9: Annual Marihuana Facility Fee.**

In addition to the application fee, an annual non-refundable Township marihuana facility fee (the "facility fee") shall be paid by each permitted marihuana facility, in the amount of \$1,000 or such lesser amount as may be established by resolution. The fee for the first year shall be paid within five (5) days of application approval, and within five (5) days of approval of each annual renewal. Timely payment of the fee is a condition of the marihuana facility permit.

### **Section 10: Violations and Penalties.**

- a. A violation of this ordinance is a municipal civil infraction, for which the fines shall be not less than \$250 for the first violation and not less than \$500 for a subsequent violation, and in addition to all other cost and expenses provided by law. For purposes of this Section, a subsequent offense means a violation of the provisions of this ordinance committed by the same person within six months of a previous violation of the same provision for which the person admitted responsibility or was determined to be responsible.
- b. Each day during which any violation continues shall be deemed a separate offense.
- c. 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.

### **Section 11: Existing Operations; MMMA**

- a. No person or entity that was open or operating any facility purporting to produce, manufacture, test, transfer or transport medical marihuana or

marihuana prior to the adoption of this ordinance by the Township, except a lawfully operating registered primary caregiver, shall be considered a lawful use or lawful non-conforming use.

- b. This ordinance does not apply to or regulate any registered caregiver or registered qualifying patient pursuant to the MMMA.

### **Section 12: Revocation of Permit.**

- a. A marihuana facility permit may be revoked by the Township Board for non-compliance with Act 281, other applicable state laws, this ordinance, the zoning ordinance or other applicable Township ordinances. Such revocation shall be in addition to the other available remedies under this ordinance.
- b. The Clerk shall give written notice to the permit holder of the Township Board's intent to revoke the permit. The notice shall state the reasons for the proposed revocation. The notice shall state that the applicant may attend a hearing before the Board and may be heard, as to the revocation. At least 10 days' notice of the hearing shall be given; the notice shall state the date, time and place of the hearing. At or prior to the hearing, the applicant may submit written comments with respect to the proposed revocation.
- c. Following the hearing, the Board may, by written decision, revoke the permit, elect not to revoke the permit or impose additional terms and conditions in the permit for the purpose of gaining compliance as to the matters for which revocation was considered.
- d. The revocation of a permit shall not entitle the permit holder to any refund of the annual marihuana facility fee or other fees or charges paid under the terms of this ordinance; any unused escrow deposit amounts shall be returned.
- e. A permit holder may appeal the revocation of a permit by the Township Board in the manner provided by law.

### **Section 13: Publication and Effective Date.**

This ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation in the Township.

**ORDINANCE ADOPTED:**

Yeas: 5

Nays: —

Absent: —

STATE OF MICHIGAN            )

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COUNTY OF IONIA             )

I, the undersigned, the duly elected Clerk of Keene Township, Ionia County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete representation of certain proceedings conducted by the Board of Trustees of said Township at a meeting held on this 14 day of May, 2019.

Nancy Feuerstein

Nancy Feuerstein

Keene Township Clerk