

**An Ordinance To Authorize And Regulate The Establishment Of Medical Marijuana Facilities Under The Medical Marihuana Facilities Licensing Act**

**Section 1002. Purpose: To Protect Public Health, Safety, and General Welfare**

A. It is the intent of this ordinance to authorize the establishment of certain types of medical marijuana facilities in Mueller Township and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marijuana facility in the *Mueller Township* through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marijuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

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 marijuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act; MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.

C. As of the effective date of this ordinance, marijuana remains classified as a Schedule I controlled substance under the Federal Controlled Substances Act making it illegal federally to manufacture, distribute or dispense marijuana, or possess marijuana with intent to manufacture, distribute or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

**Section 1003. Definitions**

For the purposes of this ordinance:

A. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.

B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., ("MMFLA") shall have the definition given in the Medical Marihuana Facilities Licensing Act.

C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act, as with the Public Health Code or other State law.

D. "Outdoor Grow" means growing marijuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.

#### **Section 1004. Authorization of Facilities and Fee.**

A. The following types of MMFLA licensed marijuana facilities shall be allowed in Mueller Township:

- Class A, B and C Growers
  - "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.
- Processors
  - "Processor" means a licensee that is a commercial entity located in Michigan that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.
- Secure transporters
  - "Secure transporter" means a licensee that is a commercial entity located in this state that stores marijuana and transports marijuana between marijuana facilities for a fee.
- Provisioning centers
  - "Provisioning center" means a licensee that is a commercial entity located in Michigan that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marijuana 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 in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

- Safety compliance facilities
  - "Safety compliance facility" means 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.

B. A nonrefundable fee shall be paid by each marijuana facility licensed under this ordinance in an annual fee of not more than \$5,000.00, as set by resolution of the township board.

#### **Section 1005. Requirements and Procedure for Issuing License**

A. No person shall operate a marijuana facility in Mueller Township without a valid marijuana facility license, issued by the State of Michigan, or in violation of the provisions of this ordinance.

B. Every applicant for a license to operate a marijuana facility shall file an application with the Township Clerk or Township Supervisor upon a form provided by the Mueller Township.

C. Every applicant for a license to operate a marijuana facility shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

D. Upon an applicant's completion of the provided form and furnishing of all required information and documentation, the Township Clerk or Township Supervisor shall act to approve or deny an application not later than fourteen (14) days from the date the application was accepted. If approved, the Township Clerk or Township Supervisor shall issue the applicant an approval.

E. Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the Township Clerk or Township Supervisor shall approve or deny the marijuana facility license. The Township Clerk or Township Supervisor shall issue marijuana facility licenses.

F. Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility license under this ordinance and continued operation of any marijuana facility.

G. A marijuana facility license issued under this ordinance is not transferable.

H. No Provisioning Center or Secure Transporter shall be located within 1,000 feet of a school, K thru 12, measured property line to property line.

I. Provided it is permitted under state law, outdoor grows shall be allowed, provided plants are cultivated behind a fence at least eight (8) feet tall enclosing the plants on all sides, with gates, equipped with locks, for ingress and egress.

J. The marijuana facility must be at all times in compliance with the Mueller Township police power authorizing ordinance TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.

K. The use or facility must at all times be in compliance with all other applicable laws and ordinances of Mueller Township.

L. Mueller Township may suspend or revoke an occupancy permit based on a finding that material provisions are not met, under this ordinance, state law or regulation.

M. A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.

N. Signage requirements for marijuana facilities, unless otherwise specified, are as provided in the the article or ordinance containing the sign regulations.

O. Marijuana Growers licensed under the MMFLA must have a minimum lot size of five (5) acres per Grower license.

- P. The minimum front, rear, and side yard setbacks for any marijuana facility shall be 50 feet, except that the minimum front, rear, and side yard setbacks for outdoor grows shall be a minimum of 100 feet from all lot lines. The waterfront setback for any structure or outdoor grows shall be at least 100 feet from the ordinary high water mark.
- Q. Provided it is permitted under state law, outdoor grows shall be allowed, if plants are cultivated behind a fence at least 8-feet tall enclosing the plants on all sides, with gates, equipped with locks, for ingress and egress.
- R. If indoors, a marijuana facility shall be located entirely within one or more completely enclosed buildings. The marijuana facility shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors.
- S. If only a portion of a building is authorized for use in marijuana production, a partition wall at least seven feet in height, or a height as required by the applicable building codes, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marijuana production space and the remainder of the building.
- T. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
- U. Indoor or Outdoor Grows shall be permitted including the odor produced by the plant, since it is a fragrant flowering plant naturally, and the smell is hereby found to be harmless to the people's health, welfare and safety.
- V. A marijuana facility shall have security in accord with state law and regulations.
- W. Tobacco products shall not be smoked, ingested, or otherwise consumed in the marijuana facility.
- X. Provisioning centers shall be subject to the following standards:
1. A provisioning center may only sell to patients or caregivers between the hours of 9:00 a.m. and 9:00 p.m. or as per state law.
  2. Indoor Activities. All activities of a provisioning center, including all transfers

of marijuana, shall be conducted within the structure and out of public view, except that a provisioning center shall be permitted to have drive-thru window service and off-site delivery.

3. Physical Appearance. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.

Y. Marijuana Safety Compliance Facilities shall be subject to the following standards:

1. A marijuana safety compliance facility shall be subject to the special rules and standards applicable to them under the state license regulations.

2. All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view, except for any tours of the facility.

#### **Section 1006. License Renewal**

A. A marijuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.

B. A valid marijuana facility license may be renewed on an annual basis by submitting a renewal application upon a form provided by Mueller Township and payment of the annual license fee. Application to renew a marijuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

#### **Section 1007. Applicability**

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marijuana facility were established without authorization before the effective date of this ordinance.

#### **Section 1008. Penalties and Enforcement.**

A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than \$100, plus costs. Each day a violation of this Ordinance continues to exist constitutes a

separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, Mueller Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.

C. This Ordinance shall be enforced by the Township Supervisor or designee.

**Section 1009. Severability.**

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

**Section 1010. Effective Date**

This Ordinance shall become effective thirty (30) days after this Ordinance or summary thereof has been published in a local newspaper, as provided by law.

The "Mueller Township Zoning Ordinance Amendments" was offered for adoption by Township Board Member HENDRICKSON and was supported by Township Board Member HAMILL, the vote being as follows:

Supervisor Glasscock Yes

Clerk Lee No

Treasurer Lee Yes

Trustee Hendrickson Yes

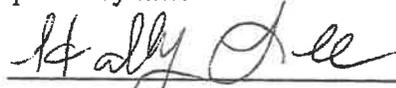
Trustee Hamill Yes

**ORDINANCE DECLARED ADOPTED.**

  
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Holly Lee, Clerk  
Mueller Township

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance adopted by the Mueller Township Board at a regular meeting held at the Township Hall on September 11<sup>th</sup>, 2017, pursuant to the procedures required by law.

A handwritten signature in cursive script, appearing to read "Holly Lee", written over a horizontal line.

Holly Lee, Clerk  
Mueller Township