

**MARILLA TOWNSHIP
RECREATIONAL MARIHUANA ESTABLISHMENT ORDINANCE
Ordinance 2021-1**

AN ORDINANCE PURSUANT TO SECTION 6 OF THE MICHIGAN
REGULATION AND TAXATION OF MARIHUANA ACT, INITIATED
LAW 1 OF 2018, BEING MCL 333.27951, *ET SEQ*, TO LIMIT THE
NUMBER OF MARIHUANA ESTABLISHMENTS WITHIN MARILLA
TOWNSHIP, TO REQUIRE A PERMIT FOR THOSE MARIHUANA
ESTABLISHMENTS AUTHORIZED IN MARILLA TOWNSHIP, AND
TO PROVIDE
PENALTIES FOR VIOLATIONS OF THE ORDINANCE

MARILLA TOWNSHIP HEREBY ORDAINS:

Section 1. Purposes.

(a) It is the intent of this Ordinance to limit the number of marihuana establishments within the Township, to provide for the adoption of reasonable licensing regulations for those marihuana establishments permitted within the Township 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 Regulation and Taxation of Marihuana Act and all 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 Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, being MCL 333.27951, *et seq.*

“Applicant” means a person who applies for a permit under this Ordinance and who intends to apply or has applied for a state 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.

“Licensee” means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

“Marihuana” means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

“Marihuana accessories” means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

“Marihuana establishment” means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana grower" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

“Marihuana microbusiness" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana processor" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

“Marihuana retailer" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana secure transporter" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana safety compliance facility" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

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

“Process” means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

“Recreational Marihuana Administrator” or “RM Administrator” means the Marilla Township Zoning Administrator, or other official designated by the Township Board.

Section 3. Marihuana Establishments Limited or Prohibited.

(a) Pursuant to the authority granted under Section 6.1 of the Act, MCL 333.27956, Subsection 1, Marilla Township hereby limits the number of marihuana establishments that may operate within the boundaries of the Township to the following:

- (1) Marihuana growers: 3, but limited to the following:
 - (i) 1 in Class A.
 - (ii) 1 in Class B.
 - (iii) 1 in Class C.
- (2) Marihuana microbusinesses: 3.
- (3) Marihuana secure transporters: 0.
- (4) Marihuana processors: 1.
- (5) Marihuana retailers: 1.
- (6) Marihuana safety compliance facilities: 1.

(b) All other marihuana establishments are completely prohibited within the boundaries of Marilla Township.

Section 4. Time for Filing Application.

Due to the limited number of marihuana establishments authorized under this Ordinance, the RM Administrator shall publish a notice in a newspaper of general circulation within the Township specifying a 45-day period during which the Township will accept applications for marihuana establishment permits under this Ordinance.

Section 5. Application, Fee, and Application Limitation.

An applicant seeking a permit(s) under this Ordinance shall submit a complete application for the marihuana establishment sought under this Ordinance to the RM Administrator and pay the required fee, which shall be determined from time to time by resolution of the Township Board. Each applicant, as defined in this Ordinance, shall be limited to one (1) application for each type of marihuana establishment sought at the same location, and may not file multiple applications under different legal entities for the same type of marihuana establishment at the same location. The RM Administrator shall note the date and time each application is filed.

The application shall include all of the following information and any other information reasonably necessary for the RM Administrator to determine whether the applicable standards for approval provided in Section 8 have been met.

- (a) The name, address, and date of birth of the applicant.
- (b) The names, addresses, and dates of birth of all officers, directors, and managerial employees of the applicant and all persons who hold any direct or indirect ownership interest in the applicant.
- (c) The type(s) of proposed marihuana establishment(s) for which a permit(s) is being sought under this Ordinance.
- (d) The address of the location at which the proposed marihuana establishment(s) will be located.
- (e) Proof of ownership or lease of the building or land in or on which the proposed marihuana establishment(s) will be located.
- (f) A written business plan for each type of proposed marihuana establishment.
- (g) A copy of the marihuana establishment plan, security plan, and marihuana product destruction and waste management plan for each type proposed marihuana establishment that were filed with the state as part of the applicant's state application(s) under the Act.
- (h) A written sign plan specifying the locations, size, and lighting of any proposed signs to be placed on the property or buildings of each type proposed marihuana establishment.
- (i) Documentation from the Michigan Marijuana Regulatory Agency that applicant has been granted prequalification status from that Agency for the state operating license needed to operate each marijuana establishment(s) that is the subject of the application.

Section 6. Administratively Complete Application.

The RM Administrator shall within ten (10) business days after an application is filed review the application and information submitted in the chronological order all applications were filed to determine if all required information was supplied (i.e., whether the application is administratively

complete). If the RM Administrator determines that the application is administratively complete, then he or she shall note the date and time the application is determined to be administratively complete. Each application that is administratively complete shall be valid for one (1) year from the date the RM Administrator determines it is administratively complete. If the RM 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 from the date of the notice from the RM Administrator, then the application shall be deemed administratively incomplete and shall be deemed withdrawn and/or may be denied by the RM Administrator on that basis.

Section 7. Excess of Administratively Complete Applications and Competitive Process.

(a) If, after the expiration of the application acceptance period provided in Section 4 above, the RM Administrator has received more administratively complete applications for a particular type of marihuana establishment than would be allowed under Section 3 above, then the RM Administrator shall decide among competing applicants by a competitive process intended to select the applicants who are best suited to operate in compliance with the Act within the township, following the procedures of this section.

(b) The RM Administrator shall send a written notice to all applicants for which there are excess administratively complete applications for a particular type of marihuana establishment giving them twenty-one (21) calendar days within which to submit supplemental information that address each of the standards specified in subsection (c) below. The applicant shall also provide written authorization for the Township to complete a background check on the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant.

(c) When deciding among excess applicants for a particular type of marihuana establishment the RM Administrators shall apply the following standards and shall document his or her decision in writing:

- (1) Whether the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant has ever been cited by local law enforcement officials, the Michigan Liquor Control Commission, or the Michigan Department of Licensing and Regulatory

Affairs and found responsible for a violation of any liquor licenses or permits or any marihuana state operating licenses, and if so, the disposition of those matters.

(2) Whether the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant has ever been convicted of a felony or any misdemeanor, controlled substance or alcohol offense within the past ten (10) years.

(3) Whether the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant has ever been found responsible for violations of any municipal zoning ordinance, blight ordinance, or nuisance ordinance; any building codes; and any health department regulations.

(4) Whether the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant has ever been delinquent in township property taxes, state or federal income taxes, or any state or federal business taxes.

(5) If the RM Administrator determines that the excess applicants are equal after the above standards are applied, then the applicants meeting the following criteria shall be given priority:

(A) Applicants who own property within the township.

(B) Applicants with the longest history of property ownership within the township.

(C) Applicants who are currently operating businesses within the township.

(D) Applicants with the longest history of operating businesses within the township.

(6) If the RM Administrator determines that the excess applicants are still equal after the standards contained in subsection (5) above are applied, then the applicants shall be selected based on the chronological order of when the RM Administrator determines that the excess applications were administratively complete.

(d) The RM Administrator shall send a copy of his or her written decision to each excess applicant. Any excess applicant aggrieved by a decision of the RM Administrator under this section may appeal that decision to the Township Board as provided in Section 10 of this Ordinance.

(e) Any applicant selected in the competitive process of this section shall then have his, her, or its applicant considered pursuant to the remaining requirements of this Ordinance.

Section 8. Standards for Approval.

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

(a) The applicant provides documentation from the Michigan Marijuana Regulatory Agency that applicant has been granted prequalification status from that Agency for the state operating license needed to operate the marijuana establishment that is the subject of the conditional permit being sought under this Ordinance.

(b) The applicant owns or has the legal right to occupy the building in or on which the marihuana establishment facility will be located.

(c) The proposed marihuana establishment is located in an area of the Township zoned for that use under the Marilla Township Zoning Ordinance.

(d) The proposed signs for each marihuana establishment comply with all requirements of the Marilla Township Zoning Ordinance for the zoning district in which located.

(e) The proposed signs advertising marihuana accessories is not visible to members of the public from any street, sidewalk, park, or other public place.

(f) Any artificial lighting utilized to grow marihuana shall be shielded to prevent glare and must not be visible from neighboring properties and from any street, sidewalk, park, or other public place.

(g) The applicant provides documentation that any marihuana processor and marihuana retailer will not be operated or open for business between

10:00 p.m. and 8:00 a.m. the following day and may be open on Sunday during these same hours.

(h) No marihuana shall be consumed, smoked, or ingested by any method in a marihuana processor or marihuana retailer establishment.

(i) A proposed marihuana establishment shall not be located within an area zoned exclusively for residential use nor within 1,000 feet of any pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.

(j) The applicant agrees to indemnify Marilla 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 marihuana establishment within Marilla Township. This provision shall apply to any and all claims by either party, its public officials, officers, council members, agents, servants, employees, successors or assigns or to any and all claims by any third party.

Section 9. Conditional Permit; Duration; Extension; Re-application; No Transfer.

(a) A permit issued under this Ordinance shall not authorize the operation of any marihuana establishment authorized under this Ordinance within Marilla Township, but shall be expressly conditioned on the state actually issuing to the applicant a state license under the Act and the Zoning Administrator issuing a zoning permit for each marihuana establishment for which a permit was issued under this Ordinance. If the state denies issuing to the applicant a state license under the Act, then the permit issued under this Ordinance shall be deemed null and void.

(b) A 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 permit for an additional six (6) months if such request for the extension is filed with RM Administrator before the expiration of the permit and the applicant demonstrates that the application for a state license remains pending with the state. Provided, however, if the Michigan Marijuana Regulatory Agency extends the prequalification status of any application pending with that agency, then the conditional permit issued

under this Ordinance shall be valid for a period of six (6) months following the termination of any such extension and may thereafter be extended as provided in this subsection.

(c) If a permit expires as provided in this section, then the applicant may re-apply for a permit following the same procedures as for a new permit and pay a new application fee. The date the new application is filed will be noted as provided in Section 5 above.

(d) A permit issued under this Ordinance shall not be transferred any other applicant or person.

Section 10. Appeal.

Any person aggrieved by a decision of the RM Administrator may appeal that decision to the Township Board following the procedures of the Marilla 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 RM 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 Zoning Administrator.

Section 11. 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 12. 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 13. Enforcement Officials.

The RM Administrator and other officials appointed 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 14. 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 15. 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 16. Effective Date.

This Ordinance shall become effective thirty (30) days after its publication in a newspaper of general circulation within the Township.

Ordinance No. 1, 2021 was adopted on the 13th day of April , 2021, by the Marilla Township Board as follows:

Motion by:

Seconded by:

Yeas:

Nays:

Absent:

Betty Buda-Joy, Clerk

Douglas Glick, Supervisor

I certify that this is a true copy of Ordinance No. 1, 2021 that was adopted at a regular meeting of the Marilla Township Board on April 13, 2021 and published in the Manistee Advocate on February 4, 2021.

Dated: _____
Betty Buda Joy, Clerk