

**Frederic Township
Crawford County, Michigan
Ordinance Authorizing and Permitting
Commercial Recreational Adult-Use Marijuana Facilities
Ordinance No. 2017-01**

SECTION 1.1 PURPOSE

- A. It is the intent of this ordinance to authorize the establishment of several types of Commercial Marijuana Facilities in the Township of Frederic 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 marijuana facilities in Frederic Township through the imposition of annual, nonrefundable licensing fees of not more than \$5,000.00 on each Commercial Marijuana Facility licensee. Authority for the enactment of these provisions is set forth in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq ("Act").
- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacturing, possession, use sale or distribution of marijuana, in any form, that is not in compliance with the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq.; the Medical Marijuana 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. This ordinance permits authorization of activity based on the Act. Nothing in this ordinance shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, cultivation, growth, possession or control of marijuana not in strict accordance with the express authorizations of the Act and this ordinance; and, nothing in this ordinance shall be construed to undermine or provide immunity from federal law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marijuana. As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec 801 et seq., which makes it unlawful to manufacture, distribute or dispense marijuana.

SECTION 1.2 CONFLICT

Nothing in this ordinance shall be construed in such a manner as to conflict with existing ordinances of the Township of Frederic except as otherwise stated herein.

SECTION 1.3 DEFINITIONS

- A. Any term defined by the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. 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.
- C. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- D. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.

“Act” means PA 18-1 of 2018, otherwise known as the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq.

"Affiliate" means any person that controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership with a licensee or applicant.

"Application" means an application for a permit under this ordinance and includes supplemental documentation attached or required to be attached thereto; the person and/or corporate entity filing the applications shall be known as the **“applicant.”** If a corporate entity is the applicant, the term includes any officer, director, or managerial employee of the entity.

“Commercial Marijuana Facility”, “Marijuana Facility” or “Facility” means an enterprise at a specific location at which a licensee is licensed to operate under Act, including a marijuana grower, marijuana processor, marijuana retailer, marijuana secure transporter, marijuana safety compliance facility, and/or marijuana events. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

“Department” means the Michigan State Department of Licensing and Regulatory Affairs or any authorized designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Marijuana Facility.

"Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

"Licensee" means a person holding a state operating license under the Act.

"Marihuana" or "Marijuana" means that the term as defined in Section 7106 of the Public Health Code. MCL 333.7106 et seq.; the Medical Marihuana Act MCL 333.26421 et seq.; the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracing MCL 333.27901 et seq. For the purpose of this ordinance, the spellings are interchangeable.

"Marihuana Microbusiness" means a person licensed to cultivate not more than 150 marijuana plants; process and package marijuana; and sell or otherwise transfer marijuana to individuals who are 21 years of age or older or to a marijuana safety compliance facility, but not to other marijuana establishments.

"Marijuana plant" means any plant of the species Cannabis sativa L.

"Marijuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

"Michigan medical marihuana act" means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

"Marijuana Retailer" means a person licensed to obtain marijuana from marijuana establishments in order to transfer marijuana to marijuana establishments and to individuals who are 21 years of age or older.

"Paraphernalia" means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

"Permit" means a current and valid permit for a Commercial Marijuana Facility issued under this ordinance. A permit shall be granted to an applicant only for and limited to a "specific permitted premises" and a "specific permitted property".

"Permit Holder" means the person that holds a current and valid permit under this ordinance.

"Permitted Premises" Means a particular building or buildings within which the Permit Holder will be authorized to conduct the facility's activities.

"Permitted Property" means the real property comprised of a lot, parcel or other designated unit of real property upon which a permitted premises facility is situated.

"Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, other legal entity or any joint venture for a common purpose.

"Processor" means a licensee that is a commercial entity located in this state 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.

"Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act, MCL 333.26423.

"Registered qualifying patient" means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in Section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

"Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

"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.

"Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

"State operating license" or, unless the context requires a different meaning, **"license"** means a license that is issued under the Act.

"Township" means Frederic Township, a general law township located in Crawford County, Michigan.

SECTION 1.4 AUTHORIZATION OF FACILITIES AND FEES

- A. The maximum number of each type of Commercial Marijuana Facility located in the Township is set as follows at the time of adoption, but will be reviewed annually or as determined to be advisable at the discretion of the Frederic Township Board of Trustees., and subject to change. The review and its findings shall be recorded in the minutes of the relevant meeting of the Township Board.

Type of Facility	Number Allowed
Grower Type A	Unlimited
Grower Type B	Unlimited
Grower Type C	Unlimited
Secure Transporter	Unlimited
Processor	Unlimited
Safety Compliance Facility	Unlimited
Marijuana Retailer	5
Marijuana Microbusiness	0 (Not Permitted)

- B. Only applicants that have a license to operate a Provisioning Center under the Michigan Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq. ("MMFLA"), and have a license issued by the Township to operate a Provision Center under the MMFLA will be eligible for a Marijuana Retailer License.
- C. A non-refundable local permitting fee shall be paid annually to the Township by each Commercial Marijuana Facility licensed under this ordinance of no more than \$5,000 as set by resolution of the Township Board of Trustee's, to help defray application, administrative and enforcement costs associated with the operation of the marijuana establishment within the Township. The \$5,000 fee shall be payable by the applicant at the time of application for Township authorization to operate a Commercial Marijuana facility.

SECTION 1.5 GENERAL REQUIREMENTS

- A. No person shall operate a Commercial Marijuana Facility in the Township without a valid Marijuana facility permit issued by the Township and shall operate pursuant to the provisions of this ordinance.
- B. The requirements set forth in this ordinance shall be in addition to, and not in lieu of, any other licensing or permitting requirements imposed by applicable federal, state or local laws, regulations, codes or ordinances.
- C. At the time of application, each Applicant shall pay a non-refundable application fee to defray the costs incurred by the Township as set by resolution of the Frederic Township Board of Trustee's, not to exceed any limitations imposed by Michigan Law. See Section 1.4(B), above.
- D. A new or renewal permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the applicant or permit holder, and shall remain valid for one year from the date of application approval.
- E. Each year, any pending applications for renewal of existing permits shall be reviewed and granted or denied before applications for new permits are considered.
- F. It is the sole and exclusive responsibility of each applicant, current or prospective permit holder, to at all times during the application period and/or period of operation of a Commercial Marijuana Facility, to immediately provide the Township with all material changes in any information previously provided that may materially affect any state or local permit.
- G. No permit issued under this ordinance may be assigned or transferred to any person or corporate entity unless the assignee or transferee has submitted an application, fees and documentation required under this ordinance and has been granted a local permit by the Township. No permit issued under this ordinance is transferable to any other location other than the permitted premises on the permitted property.
- H. The original local permit issued under this ordinance shall be prominently displayed in the facility in a location where it can be readily viewed by the public, law enforcement or administrative officials at all times.

- I. Acceptance by the permit holder of a permit constitutes consent by the permit holder and its' owners, officers, managers, agents and employees for any state, federal or local law enforcement to conduct random, unannounced examinations of their facility and all articles of property therein at any time to insure compliance with this ordinance, the permit or local and state regulations.
- J. A permit holder may not engage in any other marijuana facility on the permitted property or premises without first obtaining a separate local permit.
- K. No permit shall be granted or renewed for a Commercial Marijuana Facility in a residence, building or area not specifically zoned for that purpose.
- L. No permit shall be granted or renewed for a Commercial Marijuana Facility in a Residential Zone.
- M. Receiving and maintaining a valid Commercial Marijuana Facility license issued by the State of Michigan is a condition precedent for the issuance and maintenance of a marijuana facility permit under this ordinance and continued operation of any marijuana facility.

SECTION 1.6 APPLICATION FOR PERMITS

- A. An application for a permit to operate a Commercial Marijuana Facility must be on a form provided by Frederic Township and shall be submitted to the Township Zoning Administrator along with the following information:
 - 1. The name address, phone number and email address of the applicant/s and the type of proposed medical marijuana facility.
 - 2. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of any entity owning the proposed commercial marijuana facility.
 - 3. One copy each of the following:
 - a) Documentation showing the applicant's valid tenancy, ownership or other legal interest in the property and premises propose to be permitted. If the applicant is not the owner of the proposed permitted property and/or premises, a notarized statement from the owner of such property authorizing its' use for a commercial marijuana facility.
 - b) If the applicant is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, indicate its legal status and attach a copy of all company formation documents (including amendments), proof of registration with the State of Michigan and a certificate of good standing. The township reserves the right to request additional documentation regarding corporate existence and formation as it deems necessary to process the application.
 - c) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, officers and managers of the proposed facility.

- d) Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.
 - e) Application for a sign permit, if a sign is being proposed.
 - f) The non-refundable application fee as set by the Township Board.
(\$500.00)
 - g) Disclosure as to whether any applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction or nonrenewal, including the licensing authority, the date each action was taken and the reason for each action.
 - h) Disclosure regarding any other Commercial Marijuana Facility that the applicant is currently authorized to operate in any other jurisdiction within Michigan, another state or country and the applicant's involvement in each facility, including location of such facility, type of such facility, and ownership interest in the facility.
 - i) Application for Special Use Permit to be issued by the Township Planning Commission.
 - j) Application for Site Plan review to be issued by the Township Planning Commission.
4. Any other reasonable information requested by the Township that is considered to be relevant to the processing or consideration of the application.
- B. Upon receipt of the application and accompanying documentation, the Township Zoning Administrator shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The Zoning Administrator shall act to process an application not later than fourteen (14) business days from the date the application was accepted. If the application is deemed complete, the Zoning Administrator shall forward all information to the planning commission and establish a date for public hearing and planning commission review.
- C. A provisional application means only that the applicant has submitted a valid application for a Commercial Marijuana Facility permit, and the applicant shall not locate or operate a facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the Township. The permits and approvals required include but are not limited to:
- 1. Special Use Permit as issued by the Township Planning Commission
 - 2. Site Plan approval from the Township Planning Commission
- D. Within ten (10) business days of the planning commission's approval of the applicant's Site Plan, Special Use Permit and Commercial Marijuana Facility Permit and payment of the annual non-refundable local permitting and application fee, the Township Zoning Administrator shall issue the Commercial Marijuana Facility Permit.

SECTION 1.7 PERMIT RENEWAL

- A. A Commercial Marijuana Facility permit shall be valid for one year, expiring on the facility's final approval date, unless revoked as provided by law.
- B. A valid Commercial Marijuana Facility permit may be renewed on an annual basis by submitting a renewal application form provided by the Township and payment of the annual local permit fee. Renewal applications must be filed at least sixty (60) days prior to the expiration of the facility's permit or ninety (90) days prior for changes of location. The Township will not accept renewal applications and permit forfeiture will result after the expiration date of any and all of the above-listed deadlines.

SECTION 1.8 APPLICABILITY

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

SECTION 1.9 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 \$500.00, plus costs. Each day a violation of this ordinance continues to exist constitutes a separate violation subject to an additional \$500.00 fine. 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, the 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 and administered by the Township Zoning Administrator or such other Township official(s) as may be designated from time to time by resolution of the Township Board of Trustees.

SECTION 1.10 SEVERABILITY

In the event 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 1.11 OPERATIONAL REQUIREMENTS

- A. A Commercial Marijuana Facility issued under this ordinance and operating in the Township shall at all times comply with the following operational requirements, which the Township Board may review and amend from time to time as it deems reasonable.

1. **Scope of Operation.** Commercial Marijuana Facilities shall comply with all respective applicable codes of the local zoning, building and health departments. The facility must hold a valid local Permit and State Operating License for the type of facility intended to be carried out on the permitted property. The facility owner, operator and/or licensee must have documentation available that local and State sales tax requirements, including holding any licenses, if applicable, are satisfied.
 2. **Location.** Each Commercial Marijuana Facility shall be operated only from the permitted premises on the permitted property. No Commercial Marijuana Facility shall be permitted to operate from a moveable, mobile or transitory location, except for a permitted and licensed secure transporter when engaged in the lawful transport of marijuana.
 3. **Age.** No person under the age of twenty-one (21) shall be allowed to enter into a Commercial Marijuana Facility.
 4. **Security.** Permit holders shall at all times maintain a security system that meets State requirements under the Act, including but not limited to the following:
 - i Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Facility;
 - ii Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;
 - iii A locking safe permanently affixed to the permitted premises that shall store all marijuana and cash remaining in the Facility overnight;
 - iv All marijuana in whatever form stored at the facility shall be kept in a secure manner and shall not be visible from outside the facility, nor shall it be grown, processed, exchanged, displayed or dispensed outside the facility; and
 - v All security recordings and documentation shall be preserved for at least 48 hours by the permit holder and made available to any law enforcement upon request for inspection.
 - vi All Facilities not located in an industrial, mixed use, commercial, and/or recreational forest area will be required to install fencing, approved by the Township. However, the Township planning commission reserves the right to require fencing for Facilities located in the industrial, mixed use, commercial, and/or recreational forest areas.
- B. **Sale of Marijuana.** Marijuana and marijuana products offered for sale and distribution must be packaged and labeled in accordance with the laws of the State of Michigan.
- C. **Sign Restrictions.** No pictures, photographs, drawings or other depictions of marijuana or marijuana paraphernalia shall appear on the outside of any facility nor be visible outside of the facility. The words "marijuana," "cannabis" or any other words intended to convey the presence or availability of marijuana shall not appear on the outside of the facility nor be visible outside of the facility.
- D. **Use of Marijuana.** The sale, consumption or use of alcohol or tobacco products on the permitted property is prohibited. Smoking or consumption of controlled substances, including marijuana, on the permitted property is prohibited.

- E. **Indoor Operation.** All activities of Commercial Marijuana Facilities, including without limitation, distribution, growth, cultivation, or the sale of marijuana, and all other related activity permitted under the facilities license or permit must occur indoors. The facilities operation and design shall minimize any impact to adjacent uses, including the control of odor by maintaining and operating an air filtration system so that no odor is detectable outside the permitted facility.
- F. **Additional Conditions.** The Township Board may impose such reasonable terms and conditions on a Commercial Marijuana Facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this ordinance and applicable law.