

THE VILLAGE OF FIFE LAKE
AN ORDINANCE TO AUTHORIZE AND REGULATE THE
ESTABLISHMENT OF ADULT USE MARIHUANA FACILITIES

ORDINANCE NO. 22-11
ADOPTED: JUNE 27, 2022, EFFECTIVE: July__

ADULT USE FACILITIES ORDINANCE

An ordinance to provide a title for the ordinance; to define words; to authorize the operation of and provide regulations for adult use marihuana facilities in The Village of Fife Lake pursuant to Public Act 281 of 2016, as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

THE VILLAGE OF FIFE LAKE
GRAND TRAVERSE COUNTY, MICHIGAN

ORDAINS:

SECTION I TITLE

This ordinance shall be known as and may be cited as the Village of Fife Lake Adult use Marihuana Facilities Ordinance.

SECTION II PURPOSE

1. It is the intent of this ordinance to authorize the establishment of certain types of adult use marihuana facilities in The Village of Fife Lake 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 marihuana facility in the Village of Fife Lake through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each adult use marihuana facility licensee. Authority for the enactment of these provisions is set forth in the Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
2. 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 Adult use Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Adult use Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.
3. As of the effective date of this ordinance, marihuana 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 marihuana, or possess marihuana with the intent to manufacture, distribute, or dispense marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

SECTION III DEFINITIONS

Words used herein shall have the definitions as provided for in PA 281 of 2016, as may be amended.

SECTION IV AUTHORIZED ADULT USE MARIHUANA FACILITIES

1. The following adult use marihuana facilities may be authorized to operate within the Village by the holder of a state operating license, subject to compliance with PA 281 of 2016, as may be amended, the Rules promulgated thereunder and this ordinance:

a) Not more than zero (0) growers shall be authorized in the Village, which number shall include all of the following Class A, Class B and Class C growers authorized in the Village:

1. Not more than Zero (0) Class A growers (500 marihuana plants) may be authorized in the Village.
2. Not more than zero (0) Class B growers (1,000 marihuana plants) may be authorized in the Village.
3. Not more than zero (0) Class C growers (1,500 marihuana plants) may be authorized in the Village.

b) Not more than zero (0) processors shall be authorized in the Village.

c) Not more than one (1) provisioning center/ recreational marihuana facility shall be authorized in the Village.

d) Not more than zero (0) safety compliance facilities shall be authorized in the Village.

e) Not more than zero (0) secure transporters shall be authorized in the Village.

2. An adult use marihuana facility must meet all the underlying requirements:

i. Odor Emissions.

(a) The medical marihuana provisioning center must be equipped with an activated carbon filtration system or other similar filtration system that prevents smoke, odor, debris, dust, fluids, and other substances relating to the operation of the provisioning center from being detectable outside of the provisioning center. The standard for the detection of smoke, odor, debris, dust, fluids, or other substances relating to the operation of the provisioning center will be that of a reasonable person with normal sensory sensitivities.

(b) Negative air pressure must be maintained inside the marihuana provisioning center.

ii. The lot where the adult use marihuana provisioning center is located may not be within 1,000 feet of a pre-existing public or private K-12 school, or within 500 feet of a church, beach, or park, excluding The State of Michigan roadside park on U.S. Highway 131. Distance is measured as the shortest straight-line distance between lots.

iii. The Marihuana provisioning center is only permitted to be open to the public on Monday – Saturday between 8:00 am – 8:00 pm and on Sunday between 12 pm – 6 pm.

iv. Walk-up windows, drive-thru service, and drive-in service are prohibited.

E. Recreational Marihuana Retailer - subject to the following restrictions:

v. i. Odor Emissions.

(c) The marihuana provisioning center must be equipped with an activated carbon filtration system or other similar filtration system that prevents smoke, odor, debris, dust, fluids, and other substances relating to the operation of the provisioning center from being detectable outside of

{19622-002-00125439.1}

the provisioning center. The standard for the detection of smoke, odor, debris, dust, fluids, or other substances relating to the operation of the provisioning center will be that of a reasonable person with normal sensory sensitivities.

(d) Negative air pressure must be maintained inside the marihuana provisioning center.

vi. The lot where the medical marihuana provisioning center is located may not be within 1,000 feet of a pre-existing public or private K-12 school, or within 500 feet of a church, beach, or park, excluding The State of Michigan roadside park on U.S. Highway 131. Distance is measured as the shortest straight-line distance between lots.

vii. The Marihuana provisioning center is only permitted to be open to the public on Monday – Saturday between 8:00 am – 8:00 pm and on Sunday between 12 pm – 6 pm.

viii. Walk-up windows, drive-thru service, and drive-in service are prohibited.

3. Authorized Adult use Marihuana Facilities are only authorized by Special Land Use permit in the Commercial 2 zoning district.

4. On and after, the Village shall accept applications for authorization to operate an adult use marihuana facility within the Village. Application shall be made on a Village form and must be submitted to the Village Zoning Administrator and/or other designee of the Village Board. Once the Zoning Administrator or designee receives a complete application including the initial annual adult use marihuana facility fee, the application shall be time and date stamped. Complete applications shall be considered for authorization in consecutive time and date stamped order. Upon consideration, if the facility type authorization is available within the number specified above, then the applicant shall receive conditional authorization to operate such adult use marihuana facility within the Village. Once the limit on the number of an authorized facility is conditionally reached, then any additional complete applications shall be held in consecutive time and date stamped order for future conditional authorization. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Zoning Administrator and or designee at any time and receive refund of the initial annual adult use marihuana fee submitted.

5. Within thirty days from conditional authorization from the Village, the conditionally authorized applicant must submit proof to the Zoning Administrator and or designee that the applicant has applied for prequalification from the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Zoning Administrator and or designee and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section IV (3) herein.

6. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Zoning Administrator and or designee and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section IV (3) herein.

7. A conditionally authorized applicant shall receive full authorization from the Village to operate the adult use marihuana facility within the Village upon the applicant providing to the Zoning Administrator and or designee proof that the applicant has received a state operating license for the adult use marihuana facility in the Village and the applicant has met all other requirements of this ordinance for operation including but not limited to any zoning approval for the location of the facility within the Village.

8. If a conditionally authorized applicant fails to obtain full authorization from the Village within one year from the date of conditional authorization, then then such conditional authorization shall be canceled by the Zoning Administrator and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section IV (3) herein. The Village Board shall have authority to extend the deadline to obtain full

authorization for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Village Board finding good cause for the extension.

SECTION V GENERAL REGULATIONS REGARDING AUTHORIZED ADULT USE MARIHUANA FACILITIES

1. An authorized adult use marihuana facility shall only be operated within the Village by the holder of a state operating license issued pursuant to PA 281 of 2016, as may be amended, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.
2. Prior to operating an authorized adult use marihuana facility within the Village pursuant to a state operating license, the facility must comply with all Village zoning ordinance regulations. The facility shall only be operated as long as it remains in compliance with all Village zoning ordinance regulations.
3. Prior to operating an authorized adult use marihuana facility within the Village pursuant to a state operating license, the facility must comply with all Village construction and building ordinances, all other Village ordinances specifically regulating adult use marihuana facilities, and generally applicable Village police power ordinances. The facility shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.
4. An authorized adult use marihuana facility shall consent to inspection of the facility by Village officials and/or by the County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.
5. If at any time an authorized adult use marihuana facility violates this ordinance the Village Board may request that the state revoke or refrain from renewing the facility's state operating license. Once such state operating license is revoked or fails to be renewed, the Zoning Administrator shall cancel the Village authorization and the authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section IV (3) herein.
6. A marihuana facility licensed facility issued under this ordinance is not transferable.
7. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized adult use marihuana facility a vested right, license, privilege or permit to continued authorization from the Village for operations within the Village.
8. The Village expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized adult use marihuana facilities authorized to operate within the Village.

SECTION VI ANNUAL ADULT USE MARIHUANA FACILITY FEE

There is hereby established an annual nonrefundable Village adult use marihuana facility fee in the amount stated in the village of Fife Lakes Schedule of fees for each authorized adult use marihuana facility within the Village, to help defray administrative and enforcement costs associated therewith. An initial annual adult use marihuana facility fee shall be payable at the time of application for Village authorization and thereafter the same amount shall be payable each year by the anniversary of the date of full Village authorization to operate the adult use marihuana facility.

SECTION VII VIOLATIONS AND PENALTIES

1. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.

2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court. For purposes of this section, “subsequent offenses” means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible. The foregoing sanctions shall be in addition to the rights of the Village to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Village incurs in connection with the municipal civil infraction.
3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, violation of this ordinance shall be deemed a nuisance per se and the Village may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Village or by such other person (s) as designated by the Village Board from time to time.

SECTION VIII SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing adult use marihuana facilities pursuant to PA 281 of 2016, as may be amended.

SECTION IX REPEAL

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION X EFFECTIVE DATE

This ordinance shall take effect on.....

THE VILLAGE OF FIFE LAKE
Tessa Johnson Village Clerk
616 Bates
PO Box 298
Fife Lake, MI 49633