

**TOWNSHIP BOARD
BIG PRAIRIE TOWNSHIP
NEWAYGO COUNTY, MICHIGAN**

(Ordinance No. 2022-004

At a regular meeting of the Township Board for Big Prairie Township held at Township Hall on June 14, 2022, the following Ordinance was offered for adoption by Township Board Member _Scott and was seconded by Township Board Member Wright:

**AN ORDINANCE TO AUTHORIZE AND REGULATE THE LICENSING
OF CERTAIN RECREATIONAL MARIHUANA ESTABLISHMENTS
WITHIN BIG PRAIRIE TOWNSHIP.**

THE TOWNSHIP OF BIG PRAIRIE (the "Township") ORDAINS:

Section 1. Title.

This Ordinance will be referred to and cited as the "Big Prairie Township Recreational Marihuana Establishment Licensing Ordinance."

Section 2. General.

Big Prairie Township (the "Township") finds that it is in the public interest to allow the licensing and operation of limited and designated recreational marihuana establishments within its boundaries in a manner consistent with this Ordinance, the Michigan Regulation and Taxation of Marihuana Act, IL 1 of 2018 (MCL 333.27951 et seq.), as amended, and other applicable state and local laws, rules, and regulations.

Section 3. Purpose.

The purpose of this Ordinance is to establish standards for the licensing of certain recreational marihuana establishments within the Township. It is the Township's intent, subject to conditions, to allow the licensing and operation of certain recreational marihuana establishments within its boundaries in order to:

- A. Promote the safe and regulated cultivation, processing, storage, and sale of recreational marihuana;
- B. Provide safe access to recreational marihuana for eligible consumers;
- C. Discourage the sale of unsafe or unlicensed marihuana products;
- D. Preserve and protect the health, safety, and welfare of the residents of the Township

and the general public by minimizing the unsafe or unregulated production and sale of marihuana; and

- E. Establish standards and procedures by which the licensing, permitting, operating, and maintaining of recreational marihuana establishments within the Township will be governed.

Section 4. Definitions.

- A. Terms not defined in this Ordinance will be defined pursuant to the Michigan Regulation and Taxation of Marihuana Act, IL 1 of 2018 (MCL 333.27951 *et seq.*), as amended.
- B. Terms not defined in this Ordinance or in the Michigan Regulation and Taxation of Marihuana Act, IL 1 of 2018 (MCL 333.27951 *et seq.*), as amended, will be defined pursuant to the administrative rules regarding marihuana establishments as amended and promulgated by the State of Michigan Cannabis Regulatory Agency or its successor agency.
- C. For the purpose of this Ordinance, the following definitions will apply unless the context clearly indicates or requires otherwise:
 - (1) "Act" means the Michigan Regulation and Taxation of Marihuana Act, IL 1 of 2018 (MCL 333.27951 *et seq.*), as amended.
 - (2) "Marihuana establishment" means marihuana establishment as defined in the Act. This term includes designated consumption establishments and temporary marihuana events.
 - (3) "Marihuana grower" means a marihuana grower as defined in and regulated under the Act.
 - (4) "Marihuana processor" means a marihuana processor as defined in and regulated under the Act.
 - (5) "Marihuana retailer" means a marihuana retailer as defined in and regulated under the Act.
 - (6) "State operating license" means a marihuana establishment operating license granted by the State of Michigan pursuant to the Act.
 - (7) "Township license" means a Township marihuana establishment license issued under this Ordinance.

Section 5. Authorized Marihuana Establishments.

- A. Unless specifically authorized and licensed in accordance with the provisions of this Ordinance, marihuana establishments are prohibited within the Township.
- B. Operation of a marihuana establishment requires a valid State operating license and Township license.
- C. Marihuana establishments must be operated in compliance with all Township regulatory and zoning ordinances, rules, and regulations.
- D. Marihuana establishments must be operated in compliance will all State laws, rules, and regulations.
- E. Township licenses for the following types of marihuana establishments may be granted for operation within the Township at any one time:
 - (1) Marihuana Grower: Two (2) such licenses. A Township marihuana grower license will permit the operation of any class of marihuana grower authorized by the Act; however, a separate Township marihuana grower license is required for every corresponding marihuana grower State operating license.
 - (2) Marihuana Processor: Two (2) such licenses.
 - (3) Marihuana Retailer: Two (2) such licenses.
- F. This Ordinance does not apply to or regulate any protected patient or caregiver conduct pursuant to the Michigan Medical Marihuana Act, PA 1 of 2008 (MCL 333.26421 *et seq.*), as amended.
- G. It is a condition of any Township license issued in accordance with this Ordinance that a Township license is a revocable privilege granted by the Township and is not a property right. The application for a Township license, granting of a Township licensee, or the possession of a Township license does not create, grant, or vest any right, title, franchise, or other property interest. The Township may at any time cease authorizing, licensing, or renewing the licenses of marihuana establishments. As a condition of licensure, the licensee must, in writing, acknowledge and agree to the provisions of this paragraph G.

Section 6. Licensing Application.

- A. All applications for a Township license will be filed with the Township Clerk utilizing and complying with the Township application, forms, and processes, as adopted from time to time by resolution of the Township Board.
- B. Neither the application for a Township license nor the granting of a Township license may be made until the applicant has been granted State of Michigan "prequalification" status.

- C. Applications will only be accepted during the application window as determined from time to time by resolution of the Township Board.
- D. As part of the application process, the applicant may be required to provide any information required by the Act and any other information reasonably deemed by the Township to be required for the consideration of a Township license.
- E. The issuing of a Township license under this Ordinance is at the sole discretion of the Township Board. The Township Board will utilize the requirements of this Ordinance, the Township Zoning Ordinance, the best interest of the Township, and the licensing rules adopted from time to time by resolution of the Township Board when making licensing determinations.
- F. No Township license may be issued if the number of active Township licenses allowed under this Ordinance has been previously met.
- G. All Township licenses expire 365 calendar days from the date of issue.
- H. The Township Clerk will assess an initial non-refundable license application fee in the amount set from time to time by resolution of the Township Board. No application will be accepted without the full payment of the required fee.
- I. Upon the granting of authorization for a Township license, the Township Clerk will assess a non-refundable licensing fee in the amount set from time to time by resolution of the Township Board. No Township license will be issued without the full payment of the required fee. Failure to pay the licensing fee in full within ten (10) calendar days of eligibility may be considered a refusal and forfeiture of the Township license.
- J. No Township license will be issued to an applicant in default to the Township.

Section 7. License Renewal.

- A. All applications for the renewal of a Township license will be filed with the Township Clerk utilizing and complying with the Township application, forms, and processes, as adopted from time to time by resolution of the Township Board.
- B. Neither the application for the renewal of a Township license nor the renewal of a Township license may be made unless the applicant has a valid State operating license for the marihuana establishment seeking the Township license renewal.
- C. Township license renewal applications must be submitted to the Township Clerk no later than thirty (30) calendar days before the Township license expires. Late applications will be subject to a late fee as determined from time to time by resolution of the Township Board.

- D. As part of the license renewal process, the applicant may be required to provide any information required by the Act and any other information reasonably deemed by the Township to be required for the consideration of a Township license.
- E. The Township Clerk will renew a Township license if, after a due diligence investigation, the Township Clerk concludes that the applicant complies with the requirements of this Ordinance and that the renewal of a Township license would not constitute a menace to the health, safety, or general welfare of the public. Prior violations of this Ordinance are grounds to deny the renewal of a Township license. The Township Clerk will state in writing the grounds for any denial of a Township license renewal.
- F. All Township licenses will expire 365 days from the date of renewal.
- G. The Township Clerk will assess a non-refundable Township license renewal application fee in the amount set from time to time by resolution of the Township Board. No renewal application will be accepted without the full payment of the required fee.
- K. Upon the renewal of a Township license, the Township Clerk will assess a non-refundable licensing fee in the amount set from time to time by resolution of the Township Board. No Township license will be issued without the full payment of the required fee. Failure to pay the licensing fee in full within ten (10) calendar days of eligibility may be considered a refusal and forfeiture of the Township license.
- H. No Township license renewed if the applicant is in default to the Township.

Section 8. Licensing Requirements.

- A. No Applicant that has done business or purported to do business under this Ordinance or the Act without first obtaining the necessary Township license, State operating licenses, and necessary approvals and permits will be eligible for licensing under this Ordinance.
- B. All marihuana establishments are subject to inspection, with or without notice, at any time, by the officials responsible for the enforcement of this Ordinance as designated from time to time by resolution of the Township Board.
- C. At all times, marihuana establishments must comply with all applicable rules, standards, laws, ordinances, and regulations promulgated by the Township, the State of Michigan, or any entity thereof.
- D. Each Township license is issued exclusively to the licensee and any interest in a Township license is not transferable except as provided herein. The stockholders of a corporation, members of a limited liability company (LLC), partners of a limited

partnership (LP), or other individuals with an ownership interest in the licensee may transfer their ownership interest in the licensee provided such transfer is approved by the Cannabis Regulatory Agency or its successor agency. Any change in the ownership interest must be reported to the Township within ten (10) calendar days.

- E. Township licenses must be displayed at the licensed marijuana establishment in a manner clearly visible to the public.
- F. The issuance of a Township License under this Ordinance is in addition to, and not in lieu of, any other licensing or permitting required by Township, the state of Michigan, or any entity thereof.
- G. Township licenses are not specific to any one location; however, applicants and licensees must notify the Township prior to any change in location.
- H. There is a continuing duty for applicants and licensees to provide the Township updated documentation within ten (10) calendar days. This includes, but is not limited to, any documentation submitted to the State of Michigan Department of Licensing and Regulatory Affairs Marijuana Regulatory Agency, or its successor agency, the issuance of any State operating license, or any change in documentation previously submitted to the Township.
- I. Applicants and licensees must self-report any violations or citation issued by the State of Michigan Department of Licensing and Regulatory Affairs Marijuana Regulatory Agency or its successor agency within ten calendar days of the issuance of any violation or citation.

Section 9. Establishment Requirements.

A. Odor Emissions.

- (1) All marijuana establishments must be equipped with an activated carbon filtration system or other similar filtration system to ensure that there is no detectable odor of marijuana or any other odor related to the operation of the marijuana establishment outside of the marijuana establishment.
- (2) Any detectable odor of marijuana or any other odor related to the operation of the marijuana establishment outside of the marijuana establishment is prohibited.
- (3) Negative air pressure must be maintained inside the marijuana establishment.
- (4) The lot where a marijuana establishment is located may not be within 1,000 feet of a lot where a pre-existing public or private school providing education in kindergarten or any grades 1 through 12 is located. Distance is measured as the shortest straight-line distance between lots.

- (5) All marihuana cultivation must take place inside of a fully enclosed permanent building.
- (6) No light used for the cultivation of marihuana may be visible from outside the building in which the cultivation takes place.
- (7) Walk-up windows, drive-thru service, and drive-in service are prohibited.

Section 10. License Revocation.

- A. A Township License may be revoked by Township Clerk for any of the following reasons:
 - (1) Fraud or misrepresentation contained in the State operating license or Township license applications.
 - (2) Violation of the Act, or any rules, regulations, or terms of licensure as promulgated by the State of Michigan Cannabis Regulatory Agency or its successor agency.
 - (3) Loss of or failure to maintain a valid State operating license.
 - (4) Violation of this Ordinance, or any rules, regulations, or terms of licensure promulgated by the Township Board.
 - (5) Violation of the Township Zoning Ordinance.
 - (6) Conducting business in such a way as to constitute a menace to the health, safety, or general welfare of the public.
- B. Prior to revocation, the Township Clerk will hold a meeting with the licensee at which point the licensee will be afforded an opportunity to be heard and present all relevant evidence.

Section 11. Appeals.

- A. Any Applicant who is denied a Township license, an applicant whose Township license is not renewed by the Township Clerk, or a licensee whose Township license is revoked by the Township Clerk may appeal such decision to the Township Board. The appeal must be submitted to the Township Clerk within thirty (30) calendar days of the denial, denial of renewal, or revocation, be in writing, and clearly state the basis for the appeal.
- B. The Township Board will hold a public hearing to consider the appeal. The appellant will be afforded an opportunity to be heard and present all relevant evidence.

- C. The Township Board has the final review authority over any appeal brought before it.
- D. No marihuana establishment whose Township license has been denied or revoked is permitted to conduct business while an appeal is pending. The conducting of business includes, but is not limited to, being open to the public, and the cultivation, processing, testing, or sale of marihuana. However, such marihuana establishment may take the necessary steps to prevent the spoilage of current inventory.
- A. The completion of the administrative appeals process under this Section 11 is required prior to the filing of any action in a court of law.
- B. The Township Board may adopt, via resolution, rules governing the appeals process.

Section 12 Violations and Penalties.

- A. Any applicant or licensee who violates this Ordinance will be responsible for a municipal civil infraction and is subject to a civil fine not to exceed \$500 plus any other costs permitted by law for each violation.
- B. Each day that a violation continues will constitute a separate violation.
- C. A violation of this Ordinance is declared to be a nuisance per se and is subject to abatement.
- D. Nothing in this Section 12 precludes the Township from pursuing any other remedies available at law or equity.

Section 13. Conflict.

- A. Nothing in this Ordinance will be construed in such a manner so as to conflict with existing Township ordinances except as otherwise stated herein.
- B. Nothing in the Ordinance shall be construed in such a manner so as to conflict with the Act or any other State law.

Section 14. Repealer.

- A. Ordinance No. 2019-01 is hereby repealed.
- B. Any other ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 15. Savings Clause.

Section 16. Effective Date.

This Ordinance will become effective upon the expiration of thirty (30) days following its publication in the manner required by law.

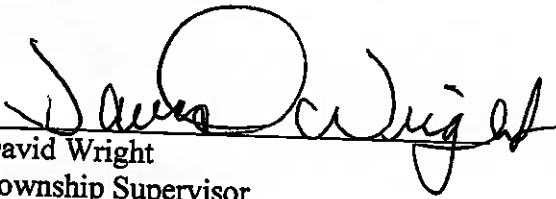
The vote regarding the adoption of this Ordinance was as follows:


YEAS: Baker, Scott, Wright.

NAYS: -0-

ABSENT/ABSTAIN: Malloy, Anderson absent.

ORDINANCE DECLARED ADOPTED.


David Wright
Township Supervisor



Judith Baker
Township Clerk

CERTIFICATION

I hereby certify that the foregoing Ordinance was adopted by the Township Board for Big Prairie Township, Newaygo County, Michigan, at a meeting of the Township Board duly called and held on June 14, 2022.

Adopted: JUNE 14, 2022
Published: JUNE 27, 2022
Effective: JULY 27, 2022

By:


Judith Baker
Township Clerk