F.A.Q. about the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 (MMFLA)

Q: What types of facilities may be authorized under the new MMFLA if a township allows them by ordinance?

> **A.** The following types of medical marihuana facilities are authorized by the MMFLA. One or more types may be allowed by a township ordinance:

Class A, B, or C Grower – "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."

Processor – "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."

Provisioning Center – "A licensee that is a commercial entity located in this State that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through their registered primary caregivers. The term includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualified patient connected to the caregiver through the marihuana registration process of the Department of Licensing and Regulation in accordance with the Michigan Medical Marihuana Act will not be a provisioning center for purpose of the Licensing Act."

Secure Transporter – "A licensee that is a commercial entity located in this State that stores marihuana and transports it between marihuana facilities for a fee."

Safety Compliance Facility – "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 (THC) and other cannabinoids, returns the test results, and may return the marihuana to the facility."

Any time after December 15, 2017, a municipality that wants to allow medical marihuana facilities to operate within its boundaries would need to adopt an ordinance allowing one or more of the specific types of facilities authorized by the MMFLA. The ordinance should specify which type(s) of facilities—and how many of each type—the municipality is choosing to allow. If a municipality "opts in" with an ordinance that does not specify a cap on the type(s) or number of each, applications for any of the types and any number of a type within the municipality will be considered by LARA.

But a license from the state is still required before a specific facility is authorized to legally operate under the MMFLA. The council's adoption of an ordinance allowing medical marihuana facilities does not automatically make all facilities lawful. Also note that, because dispensaries and other marihuana facilities or operations outside of the patient/caregiver relationship are NOT currently lawful (even where marihuana has been decriminalized locally), existing dispensaries or other marihuana facilities or operations are not currently lawful non-conforming uses for zoning ordinance purposes.

Q: Why would a municipality consider allowing one or more of the types of facilities authorized under the MMFLA?

> **A.** Some communities accept medical marihuana use for compassionate reasons, and believe that the new Facilities Licensing Act will better facilitate the spirit and actual practice of the patient-caregiver relationship authorized by the statewide initiative that created the Medical Marihuana Act in 2008.

Other communities may be responding to a real demand or broad support locally for providing medical marihuana facilities and business opportunities. And, it may be a revenue source.

- **Annual administrative fee:** Once a municipality adopts an ordinance allowing one or more of the types of facilities authorized by the Medical Marihuana Facilities Licensing Act, the municipality may in that ordinance require "an annual, nonrefundable fee of not more than $5,000 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality." ("Nonrefundable"—as in not returned if the license is revoked or not renewed.)
- **Property tax revenues:** These facilities are businesses and may actually be quite profitable. And, in some communities, medical marihuana facilities will utilize commercial properties that are currently vacant or even off the tax roll due to foreclosure.
- **State shared revenues, as appropriated:** A state tax will be imposed on each provisioning center at the rate of 3 percent of the provisioning center's gross retail receipts, which will go to the state Medical Marihuana Excise Fund. The money in the fund will be allocated, upon appropriation, to the state, counties, and municipalities in which a marihuana facility is located, with "25 percent to municipalities in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the municipality."

Q: Isn't is supposed to be spelled "marijuana", with a 'J' not an 'H'?

> **A.** Yes, But the word was originally spelled with an 'H', and that is how the word is spelled in federal law and the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act and Medical Marihuana Licensing Act. But everyone else today, including the courts, use the more common spelling with the 'J'.

Links to other sites for additional information:

https://www.canr.msu.edu/planning/zoning/medical-marihuana-facilities-licensing-act

http://www.legislature.mi.gov/documents/2015-2016/billanalysis/Senate/pdf/2015-SFA-4209-N.pdf

http://legislature.mi.gov/doc.aspx?mcl-Act-281-of-2016

http://www.mml.org/resources/publications/one_pagers/opp_med_marihuana_%20facilities_%20licensing.pdf

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