



ORDINANCE #235
AN ORDINANCE TO UPDATE THE VILLAGE ZONING ORDINANCE FOR
MEDICAL MARIJUANA USES

Definitions

Add the following definitions to Section 19.02.

"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 issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

"Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

"Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. 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.

"Outdoor production" means growing marijuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.

"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.

"Provisioning center" means 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 the patients' registered primary caregivers. Provisioning center 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 qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

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"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

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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.

Zoning Districts

- A. A marijuana grower as authorized by Ordinance #234 in the Industrial District(s);
- B. A marijuana processor as authorized by Ordinance #234 in the Industrial District(s);
- C. A marijuana provisioning center as authorized by Ordinance #234 in the Industrial and Commercial District(s);
- D. A marijuana secure transporter as authorized by Ordinance #234 in the Industrial and Commercial District(s); and
- E. A marijuana safety compliance facility as authorized by Ordinance #234 in the Industrial and Commercial District(s).

Special Use Standards

12.05.24. Marijuana grower, marijuana processor, marijuana provisioning center, Marijuana secure transporter, and Marijuana safety compliance facility:

- A. A marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, and marijuana safety compliance facility, in accordance with the provisions of state law, may be permitted through the issuance of a special use permit pursuant to Article 12 in the specified zone(s), provided that:
 1. Any uses or activities found by the state of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the Village. In the event that a court with jurisdiction declares some or all of this article invalid, then the Village may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.
 2. The marijuana facility must be licensed by the state of Michigan and then must be at all times in compliance with the laws of the state of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
 3. At the time of application for a special use permit the marijuana facility must be licensed by the Village, or have the Village license concurrently in process with the special use permit and site plan approval, and then must be at all times in compliance with the Village Ordinances and any regulations adopted by the Village Council for medical marijuana operations.

4. The use or facility must be at all times in compliance with all other applicable laws, regulations, and ordinances of the Village.
5. The Village may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section; all other applicable provisions of this zoning ordinance; Ordinance #234; any regulations adopted by the Village Council; violations of the applicable building, mechanical, electrical, or plumbing codes; or the terms of the special use permit and approved site plan are not met.
6. A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.
7. Signage requirements for marijuana facilities, unless otherwise specified, are as provided in Article 15.

B. Marijuana growers and marijuana processors shall be subject to the following standards:

1. Minimum Lot Size. A minimum lot size standard shall apply as follows:
 - a. In the Industrial District, the subject property shall be a minimum of 3 acres.
2. Minimum Yard Depth/Distance from Lot Lines. The minimum front, rear, and side yard setbacks for any structure used for marijuana production shall be 50 feet. The minimum water front setback for any structure or outdoor production shall be a minimum of 100 feet from the ordinary high-water mark.
3. Indoor Production and Processing. In the Industrial District, marijuana growers shall be located entirely within one or more fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors. Marijuana processing shall be located entirely within a fully enclosed, secure, indoor facility. Outdoor production is not permitted within the Village.
4. Maximum Building Floor Space. The following standards apply in the Industrial District:
 - a. A maximum of 100,000 square feet of building floor space may be used for all activities associated with marijuana production on the subject property.
 - b. If only a portion of a building is authorized for use in marijuana production, a partition wall shall separate the marijuana production space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marijuana production space and the remainder of the building.
5. Lighting. Lighting shall be regulated as follows:

- a. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
 - b. Compliance with the standards for outdoor lighting in the Village Zoning Ordinance.
6. Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana production or marijuana processing.
 - a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - b. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter (s) shall be rated for the applicable CFM.
 - c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - d. Negative air pressure shall be maintained inside the building.
 - e. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - f. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
7. Security Cameras. Security cameras shall be directed to record only the subject property and may not be directed to public rights-of way as applicable, except as required to comply with licensing requirements of the state of Michigan.

C. Provisioning centers shall be subject to the following standards:

1. Hours. A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 9:00 a.m. and 9:00 p.m.
2. Indoor Activities. All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.
3. Other Activities. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
4. Nonconforming Uses. A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.

5. Physical Appearance. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
6. Buffer Zones. A provisioning center may not be located within the distance specified from the uses below as determined by the Village. The distance shall be measured as the shortest straight-line distance between the property line of the location of the following uses to the property line of the parcel on which provisioning center premises is located, whichever is less.
 - a. A provisioning center may not be located within 500 feet of the real property comprising or used by a public or private elementary, vocational, or secondary school; a public or private college, junior college, or university; a public playground, a public park, public recreation facility; religious institution; or a public library.
7. Odor. As used in this subsection, building means the building, or portion thereof, used for a provisioning center.
 - a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - b. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - d. Negative air pressure shall be maintained inside the building.
 - e. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - f. An alternative odor control system is permitted if the special use applicant submits and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.

D. Marijuana Safety Compliance Facility shall be subject to the following standards:

1. A marijuana safety compliance facility shall be subject to the special regulations and standards as defined in other ordinances and regulations adopted by the Village.
2. All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.

E. Marijuana Secure transporter shall be subject to the following standards:

1. A marijuana secure transporter shall erect a continuous fence or wall at least 6' in height around any outdoor parking or storage area, with the exception of any required public parking.
2. Any buildings or structures used for the containment of stored materials shall be located no closer than 50 feet from any property line.

Nonconforming Uses

Section 2.28.2

- E. No marijuana facility operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use nor shall the operation of such marijuana facility be deemed a legal nonconforming use under this ordinance.
- F. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any amendment thereto.
- G. Discontinuation of a state medical marijuana facility license shall constitute *prima facie* evidence that a nonconformity has been discontinued.