

VILLAGE OF EDWARDSBURG ORDINANCE NO. 2019-02

Resolution

An ordinance to allow individuals to obtain licenses to operate medical Marihuana facilities pursuant to the Medical Marihuana Facilities Licensing Act (MMFLA) and Marihuana establishments pursuant to the Michigan Regulation and Taxation of Marihuana Act (MRTMA).

THE VILLAGE OF EDWARDSBURG ORDAINS:

Sec. 1. PURPOSE

- (a) The purpose of this article is to regulate the sale of Marihuana in the Village in order to promote the public health, safety, morals, and welfare of the community, and establishing standards and procedures consistent with the MMFLA and the MRTMA in order to allow a limited number of Medical Marihuana Facilities and Marihuana Establishments in the Village.
- (b) Nothing contained within this Ordinance, or within any license issued by the Village, shall be construed to relieve a person of the duties and obligations imposed under law.

Sec. 2. DEFINITIONS

- (a) “Marihuana” means that term as defined in the MRTMA.
- (b) “Marihuana Accessories” means that term as defined in the MRTMA.
- (c) “Marihuana Establishment” means a Marihuana Grower, Marihuana Safety Compliance Facility, Marihuana Processor, Marihuana Microbusiness, Marihuana Retailer, Marihuana Secure Transporter, or any other type of Marihuana-related business licensed under the MRTMA.
- (d) “Marihuana Grower” means a person licensed under the MRTMA to cultivate Marihuana and sell or otherwise transfer Marihuana to Marihuana establishments.
- (e) “Marihuana Microbusiness” means a person licensed under the MRTMA to cultivate not more than 150 Marihuana plants; process and package Marihuana; and sell or otherwise transfer Marihuana to individuals who are twenty-one (21) years of age or older or to a Marihuana Safety Compliance Facility, but not to other Marihuana Establishments.

- (f) “Marihuana Processor” means a person licensed under the MRTMA to obtain Marihuana from Marihuana Establishments; process and package Marihuana; and sell or otherwise transfer Marihuana to Marihuana Establishments.
- (g) “Marihuana Retailer” means a person licensed under the MRTMA to obtain Marihuana from Marihuana Establishments and to sell or otherwise transfer Marihuana to Marihuana Establishments and to individuals recreationally who are twenty one (21) years of age or older or individually holding a medical Marihuana Card accompanied by an individual at least 18 years of age.
- (h) “Marihuana Secure Transporter” means a person licensed under the MRTMA to obtain Marihuana from Marihuana Establishments in order to transport Marihuana to Marihuana Establishments.
- (i) “Marihuana Safety Compliance Facility” means a person licensed to test Marihuana, including certification for potency and the presence of contaminants.
- (j) “Medical Marihuana Facility” means any facility, entity, establishment or center that is required to be licensed under the MMFLA and this article, including a Medical Marihuana Grower, Medical Marihuana Processor, Medical Marihuana Provisioning Center, Medical Marihuana Safety Compliance Facility, and/or a Medical Marihuana Secure Transporter.
- (k) “Medical Marihuana Grower” means the term “grower” as defined in the MMFLA.
- (l) “Medical Marihuana Processor” means the term “processor” as defined in the MMFLA.
- (m) “Medical Marihuana Provisioning Center” mean the term “provisioning center” as defined in the MMFLA.
- (n) “Medical Marihuana Safety Compliance Facility” means the term “safety compliance facility” as defined in the MMFLA.
- (o) “Medical Marihuana Secure Transporter” means the term “secure transporter” as defined in the MMFLA.
- (p) “MMFLA” means the Medical Marihuana Facilities Licensing Act.
- (q) “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act.
- (r) “School” means a public or private school offering education to students enrolled in pre-kindergarten, kindergarten, one or more grades of one through twelve, or post-secondary education.
- (s) “Facility address” means the address at a physical location where a Medical Marihuana Facility or a Marihuana Establishment is proposed to be located on a license application. A

physical location may have multiple addresses through separated units or suites that are officially recognized by the US postal service.

Sec. 3. **ACTS PROHIBITED**

- (a) No person shall operate a Medical Marihuana Facility or a Marihuana Establishment in the Village without first obtaining any relevant license required by law and a license from the Village in accordance with the provisions of this Ordinance. A separate license is required for each Medical Marihuana Facility or Marihuana Establishment.
- (b) No person shall consume Marihuana in a public place within the boundaries of the Village.
- (c) No person shall display or sell Marihuana Accessories within a one thousand (1000) foot radius of any parcel upon which is located a School.

Sec. 4. **AUTHORIZATION OF MARIHUANA FACILITIES**

- (a.) Pursuant to the Medical Marihuana Facilities Licensing Act (MMFLA), the Village enacts this ordinance to set the number of state licensed medical marijuana facilities to be authorized and allowed to operate within its boundaries, as follows:
 - a.1.i Medical Marihuana safety compliance facility – 2
 - a.1.ii Medical Marihuana secure transporter – 2
 - a.1.iii Medical Marihuana provisioning center – 2
 - a.1.iv Medical marihuana processor – 2
 - a.1.v Class A Medical Marihuana grower [maximum 500 plants] – 2
 - a.1.vi Class B Medical marihuana grower [maximum 1,000 plants] – 2
 - a.1.vii Class C Medical marihuana grower [maximum 1,500 plants] – 2
- (b.) Pursuant to the Michigan Regulation and Taxation of Marijuana Act (MRTMA), the Village enacts this ordinance to set the number of state licensed marihuana establishments to be authorized and allowed to operate within its boundaries, as follows:
 - a.1.viii Marihuana safety compliance facility – 2
 - a.1.ix Marihuana secure transporter – 2
 - a.1.x Marihuana microbusiness [maximum 150 plants with processing & retail sales] – 0
 - a.1.xi Marihuana retailer – 2
 - a.1.xii Marihuana processor -2
 - a.1.xiii Class A Marihuana grower [maximum 100 plants] – 2
 - a.1.xiv Class B Marihuana grower [maximum 500 plants] – 2
 - a.1.xv Class C Marihuana grower [maximum 2,000 plants] – 2

Any combination under Section 4 (a.) and (b.) not more than two (2) facilities will be allowed.

(c) All marihuana facilities or establishments will only be permitted to operate on US 12 or M 62 within the Village

(d) Nothing in this Ordinance shall be read to prohibit a Marihuana Establishment from operating at a location shared with another Marihuana Establishment. Nothing in this Ordinance shall be read to prohibit a Medical Marihuana Facility from operating at a location shared with another Medical Marihuana Facility or with a Marihuana Establishment.

Sec. 5. **LICENSE APPLICATIONS**

(a) Any person seeking to operate a Marihuana Establishment shall file an application with the Clerk upon a form provided by the Village. The application shall include the following information in order for the application to be considered complete:

(1) Must be prequalified by the State of Michigan.

(2) The full name, date of birth, physical address, email address, and telephone number of the applicant in the case of an individual; or, in the case of an entity, all stakeholders thereof. A driver's license or State ID is also required.

(3) If the applicant is an entity, the entity's articles of incorporation or organizational documents.

(4) If the applicant is an entity, the entity's employee identification number.

(5) If the applicant is an entity, the entity's operating agreement or bylaws.

(6) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the village.

(7) The facility location and address for which the applicant is applying for a license. Only one facility address may be listed per application.

(8) A location area map that identifies the relative locations of, and distances from the nearest school to the facility address.

(9) The type of facility license the applicant is applying for.

(10) Documentation of ownership, lease agreement, or other legal arrangement permitting the applicant to apply for a license for the facility address listed on the application

(11) Except as provided by law, all materials submitted to the Village as part of an application shall be exempt from disclosure under the Freedom of Information Act.

(12) All employees must undergo a background check at the discretion of the Chief of Police and the Village Council at the cost of the employer.

Sec. 6. **APPLICATION FEE**

A nonrefundable application fee shall be paid upon filing of each application to defray costs incurred by the Village to process the application. The initial application fee shall be in the amount of at least \$1500.00 per license to be reviewed yearly by the village council with an additional \$3500 paid upon approval of a complete application for a municipal license as a Medical Marihuana Facility or a Marihuana Establishment.

Sec. 7. **APPLICATION REVIEW**

(a) The Clerk shall review each application to ensure that it is complete, that the information required in Sec. 6 of this ordinance has been submitted, and that the application fee has been paid. The Clerk may reject any application that is not complete and may deny an application for failure to pay the initial application fee.

(b) Upon receipt of a completed application meeting the requirements of this Ordinance and the appropriate license application fee, the Clerk shall refer a copy of the application to each of the following for their approval: the State Licensed or approved Fire representative, the Village President, the Village Planning Commission, and the Village Treasurer.

(c) No application shall be approved unless:

(1) The State Licensed or approved Fire representative and the Village President have inspected the proposed location for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this Ordinance.

(2) The Planning Commission has confirmed that the proposed location complies with the Village of Edwardsburg Zoning Ordinance and this chapter.

(3) The Treasurer has confirmed that the applicant and each stakeholder of the applicant are not in default to the Village.

(d) After enactment of this Ordinance, the Clerk shall begin accepting applications for Marihuana Establishments and Medical Marihuana Facilities within ten (10) calendar days.

(e) After thirty days from the date that applications are made available, the Clerk shall review complete applications for licenses to operate Medical Marihuana Facilities and Marihuana Establishments. If the number of complete applications exceeds the number of licenses available, the Village shall award licenses from those complete applications by a random lottery process. Complete applications received after thirty days following the date that

applications are first made available shall be considered after licenses for complete applications received in the initial thirty day period have been awarded.

(f) The Clerk may engage professional expert assistance in performing the Clerk's duties and responsibilities under this Ordinance.

Sec. 8. **LICENSE REQUIREMENTS**

(a) A Medical Marihuana Facility and a Marihuana Establishment licensed under this article shall be subject to the following conditions:

(1) Compliance with the requirements of this Ordinance, other applicable Village ordinances and codes, and applicable state laws;

(2) For a Medical Marihuana Facility, compliance with the provisions of the MMFLA and any rules promulgated thereunder;

(3) For a Marihuana Establishment, compliance with the provisions of the MRTMA and any rules promulgated thereunder;

(4) Operating hours for Medical Marihuana Facilities and Marihuana Establishments shall not exceed the hours between 9:00 AM and 9:00 PM daily;

(5) Signs displayed on the exterior and interior of any Medical Marihuana Facilities Center and Marihuana Establishments shall conform to Village ordinance requirements. No signs shall contain the words "Marihuana," "marijuana," or "cannabis," nor shall any sign contain Marihuana leaves.

(6) Operation of a Medical Marihuana Facility or Marihuana Establishment shall not, either directly or indirectly, cause or create any noise, dust, vibration, glare, fumes, or odors constituting a nuisance and also detectable to human senses beyond the boundaries of the property on which the facility is operated.

Sec. 9. **LICENSES GENERALLY**

(a) A license that is issued under this Ordinance shall be posted at all times inside the licensed Medical Marihuana Facility or Marihuana Establishment in a conspicuous location near the entrance.

(b) The term of a license shall be for one calendar year subject to review by the Clerk upon continued compliance with this Ordinance.

(c) Licensees may transfer a license issued under this Ordinance to a different location upon receiving written approval from the Clerk and pursuant to rules of the MMFLA or MRTMA and rules promulgated by the Department. In order to request municipal approval to transfer a license

location, the licensee must make a written request to the Clerk, indicating the current location of the Medical Marihuana Facility or Marihuana Establishment and the proposed new location. Upon receiving the written request, the Clerk shall refer a copy of the written request to the State Licensed or approved Fire representative the Planning Commission and the Village Council. No license location transfer shall be approved unless each such department or entity gives written approval that the proposed new license location meets the standards identified in this Ordinance.

(d) Licensees may transfer a license issued under this Ordinance to a different individual or entity upon receiving written approval from the Clerk and pursuant to rules of the MMFLA or MRTMA and rules promulgated by the Department. For purposes of this subsection, a change in, transfer of, or acquisition of control of the licensee is considered to be a transfer. In order to request municipal approval to transfer a licensee to a different individual or entity, the permittee must make a written request to the Clerk, indicating the current licensee and the proposed licensee. After approval by the Village Council the Clerk shall grant the request so long as it is pursuant to the MMFLA or MRTMA and rules promulgated by the Department.

Sec. 10. ANNUAL LICENSE RENEWAL

(a) Application for a license renewal shall be made in writing to the Clerk at least thirty (30) days prior to the expiration of an existing license.

(b) An application for a license renewal required by this Ordinance shall be made under oath on forms provided by the Clerk.

(c) An application for a license renewal shall be accompanied by a renewal fee to help defray administrative and enforcement costs associated with the operation of the Medical Marihuana Facility or Marihuana Establishment, which shall be set by resolution of the Council, but shall not exceed the State recommended amount which currently is five thousand dollars (\$5,000.00).

(d) Upon receipt of a completed application for a license renewal meeting the requirements of this Ordinance and the permit renewal fee, the Clerk shall approve the application if the following conditions are met:

(1) The State Licensed or approved Fire representative and the Village President or another relevant department have, within the past calendar year, inspected the location for compliance with all state and local building, electrical, fire, mechanical and plumbing requirements.

(2) The licensee possesses the necessary state licenses or approvals, including those issued pursuant to the MMFLA or MRTMA.

(3) The licensee has operated the Medical Marihuana Facility or Marihuana Establishment in accordance with the conditions and requirements of this Ordinance.

(4) The licensee is operating the Medical Marihuana Facility or Marihuana Establishment in accordance with MMFLA or MRTMA.

(f) A renewal shall be deemed approved if the Village has not issued formal notice of denial within 60 days of the filing date of the application.

Sec. 11. LICENSE REVOCATION OR SUSPENSION.

Each Medical Marihuana Facility or Marihuana Facility within the Village for which a license is granted shall be operated and maintained in accordance with all applicable State and Village laws, rules, and regulations. Upon any violation of this section or any section of this Ordinance or State Law, the Ontwa Township Edwardsburg Police Department may temporarily suspend a license and bring it to the Village Council. The Clerk may, after a notice and hearing, revoke or suspend such license as hereinafter provided.

Sec. 12. NONRENEWAL, SUSPENSION OR REVOCATION OF LICENSE.

The Clerk shall notify an Applicant or licensee of the reasons for denial of an application for a license or license renewal or for revocation of a license or any adverse decision under this Ordinance and provide the Applicant or licensee with the opportunity to be heard. Any Applicant or licensee aggrieved by the denial or revocation of a license or adverse decision under this Ordinance may appeal to the Clerk, who shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the Clerk. Such appeal shall be taken by filing with the Clerk, within fourteen (14) days after notice of the action complained of has been mailed to the Applicant or licensee's last known address on the records of the Clerk, a written statement setting forth fully the grounds for the appeal. The Clerk shall review the report and recommendation of the hearing officer and make a decision on the matter. The Clerk's decision may be further appealed to the Council if applied for in writing to the Council no later than thirty (30) days after the Clerk's decision. The review on appeal of a denial or revocation or adverse action shall be by the Council pursuant to this Ordinance. Any decision by the Council on an appeal shall be final for purposes of judicial review. The Clerk may engage professional experts to assist with the proceedings under this section.

Sec. 13. CRITERIA FOR NONRENEWAL, SUSPENSION OR REVOCATION OF LICENSE.

In addition to any other reasons set forth in this Ordinance, the Village may refuse to issue a license or grant renewal of the license or suspend or revoke the license for any of the following reasons:

- (1) A material violation of any provision of this Ordinance.
- (2) Any conviction of a disqualifying felony by the licensee or any Stakeholder of the licensee.
- (3) Failure of the licensee to obtain or maintain a license from the Department pursuant to the MMFLA or MRTMA within at least one year after the issuance of a municipal license
- (4) Failure of required sampling or testing of marihuana by the State of Michigan.

(5) Failure of any of the State Laws.

Sec. 14. **PENALTY.**

A person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction punishable by a civil fine of One hundred (\$100.00) dollars per day, plus court costs.

Section 2. All ordinances or parts of ordinances that conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective thirty (30) days after publication.

DRAFT