

**VILLAGE OF NORTHPORT**  
**ORDINANCE NO. 125**

An Ordinance enacted pursuant to the authorization(s) granted to cities, villages, and townships by the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL §333.27951, *et seq.*, as may be amended, to allow certain recreational marihuana establishments operated in accordance with state law; to repeal all ordinances or parts of ordinances in conflict; and to provide an effective date.

THE VILLAGE OF NORTHPORT ORDAINS:

SECTION I – TITLE

This ordinance shall be known and may be cited as the *Village of Northport Recreational Marihuana Establishments Ordinance*.

SECTION II – DEFINITIONS

The following words and phrases have the meanings ascribed to them when used in this ordinance:

- (a) *Co-location or co-located* means the siting and operation of a combination of multiple establishments or establishment types at a single location.
- (b) *Designated consumption establishment* means a commercial space that is licensed by LARA and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.
- (c) *Emergency Rules* means the emergency rules for adult-use marihuana establishments issued by LARA on or about July 3, 2019.
- (d) *LARA* means the Michigan Department of Licensing and Regulatory Affairs and any successor department or agency within the department, including the Marihuana Regulatory Agency.
- (e) *Licensee* means a person holding a state operating license for a marihuana establishment.
- (f) *Marihuana* means all parts of the plant genus *cannabis*, growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination. Marihuana does not include industrial hemp.

- (g) *Marihuana establishment* or *establishment* means a marihuana grower, marihuana safety compliance establishment, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by LARA under the MRTMA.
- (h) *Marihuana event organizer* means a person licensed to apply for a temporary marihuana event license under the Emergency Rules.
- (i) *Marihuana grower* means a person licensed by LARA to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (j) *Marihuana microbusiness* means a person licensed by LARA to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments.
- (k) *Marihuana processor* means a person licensed by LARA to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (l) *Marihuana retailer* means a person licensed by LARA to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- (m) *Marihuana secure transporter* means a person licensed by LARA to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- (n) *Marihuana safety compliance establishment* means a person licensed by LARA to test marihuana, including certification for potency and the presence of contaminants.
- (o) *MMMA* means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, as amended, MCL §333.26424 *et seq.*
- (p) *MMMFLA* means the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended, MCL §333.27102 *et seq.*
- (q) *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL §333.27951 *et seq.*
- (r) *MRTMA rules* means rules, including emergency rules, promulgated by LARA to implement the MRTMA.
- (s) *Prequalification step* or *prequalified* means the portion of the application for a state operating license pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons, as provided by Emergency Rule 6.
- (t) *State operating license* or, unless the context requires a different meaning, "license" means a

license that is issued by LARA under the MRTMA that allows the licensee to operate a marihuana establishment.

### SECTION III – AUTHORIZED ESTABLISHMENTS.

- (a) *Authorization and special use permit required.* No person shall operate a marihuana establishment in the Village without an authorization issued by the Village pursuant to the provisions of this Ordinance and a special use permit pursuant to this Ordinance. Hours of operation, signage, lighting, off street parking and other conditions may be considered when granting special use permits pertaining to this ordinance.
- (b) *Number of establishments eligible for authorization.* The following numbers of marihuana establishments may be authorized to operate in the Village, subject to this Ordinance:
- (1) Not more than zero (0) grower operating under Class A licenses;
  - (2) Zero growers operating under Class B licenses;
  - (3) Zero growers operating under Class C licenses;
  - (4) Not more than two (2) retailers;
  - (5) Not more than one (1) processor;
  - (6) Not more than one (1) secure transporter;
  - (7) Not more than one (1) safety compliance establishment;
  - (8) Not more than zero (0) microbusiness;
  - (9) Zero designated consumption establishments (prohibited in the Village);
  - (10) Zero excess marihuana growers (prohibited in the Village); and
  - (11) Zero temporary marihuana events (prohibited in the Village).
- (c) *Final authorization from Village required.* The authorization process described in Section IV determines the locations in the Village at which establishments may operate. A proposed establishment is not eligible to operate until the Clerk as directed by the village council grants final authorization pursuant to Section IV and until the applicant receives a special use permit under the Ordinance and all required approvals and licenses from LARA.

### SECTION IV – APPLICATION FOR AUTHORIZATION.

- (a) *Timing of Submission.* Beginning on December 9, 2019, a person may apply for authorization to operate an establishment within the Village by complying with the requirements of this section.
- (b) *Required Application Materials.* An application is not considered complete until all of the following are received by the Village Clerk:
- (1) A nonrefundable application fee in the amount of \$450.
  - (2) An advance of the annual administrative fee established by the Village Council of \$5,000

- (3) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, and officers of the proposed establishment.
- (4) A signed application (available in the Clerk's office), which must include all of the following information and documents:
  - (A) If the applicant is an individual: the applicant's name, date of birth, Social Security number, physical address (including residential and any business address), copy of government-issued photo identification, email address, and one or more phone numbers, including emergency contact information;
  - (B) If the applicant is not an individual: the names, dates of birth, physical addresses (including residential and any business address), copy of government-issued photo identifications, email address, and one or more phone numbers of each stakeholder of the applicant (including designation of the highest ranking representative as an emergency contact person), contact information for the emergency contact person, articles of incorporation or organization, assumed name registration, Internal Revenue Service EIN confirmation letter, copy of the operating agreement of the applicant (if a limited liability company), copy of the partnership agreement (if a partnership), names and addresses of the beneficiaries (if a trust), or a copy of the bylaws or shareholder agreement (if a corporation);
  - (C) The name, address, tax identification number, and current zoning designations of the property on which the proposed marihuana establishment will be located;
  - (D) The name and address of the current property owner of record of the property on which the proposed marihuana establishment will be located;
  - (E) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicant's signature. An applicant may submit applications for multiple properties. However, only one application shall be submitted per proposed marihuana establishment property, unless the applications are for proposed co-located establishments.
  - (F) The proposed establishment type;
  - (G) A complete list of all marihuana permits and licenses held and applied for by the applicant;
  - (H) Written consent for the Village to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations;
  - (I) A location area map of the marihuana establishment and surrounding area that

identifies the relative locations and the distances (closest property line to the subject marijuana establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school;

- (J) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under the MRTMA (including documents submitted for prequalification);
  - (K) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under the MMFLA, if applicable;
  - (L) A copy of all documents issued by LARA indicating that the applicant has been prequalified for a state operating license under the MRTMA;
  - (M) Any other information reasonably requested by the Village relevant to the processing or consideration of the application.
- (c) *Initial receipt period set by resolution.* For any establishment type, the Village shall establish an initial receipt period that will commence on December 9, 2019, and will end on January 31, 2020.
- (d) *Clerk action upon receipt.* The Clerk will accept and receive any complete application that includes the information and documents required, unless the Village has already received an application for the same property from another applicant. Upon receiving a complete application, the Clerk will time- and date-stamp the application and inform the applicant of the following:
- (1) The number of existing establishments of the proposed establishment type currently operating within the Village;
  - (2) The number of pending applications for the desired establishment type; and
  - (3) The process by which an applicant will be selected pursuant to subparagraph (e).
- (e) *Conditional authorization and competitive process.* The Clerk will conditionally authorize establishments as follows:
- (1) If, after close of business on the end date of the initial receipt period, the Village has received more applications for a given establishment type than would be permitted under this ordinance, the Village will decide among competing applications by a competitive process intended to select applicants who are best suited to operate in compliance with the MRTMA in the Village. The Village will provide applicants with twenty-one (21) calendar days' notice that the applicants must provide supplemental written information and documentation to the Village indicating whether the applicant satisfies each of the following criteria:

Scoring category	Available points
Background of the applicant, including past ownership interest in a business or businesses operating in the State of Michigan; past compliance with business licensing requirements, including marihuana business licenses issued by LARA; current medical marihuana facility and/or adult-use marihuana establishment license status in the Village; history of compliance with Village and state regulations associated with existing marihuana facility or establishment licenses held in the Village; and residency in the Village, county, or region.	Twenty (20) points
Human resources, including the number of full- time equivalent employees; the percent of such employees that are residents of the Village; and the proposed minimum rate of pay for all employees.	Twenty (20) points
Physical investment, including the applicant’s proposed tangible capital investment; the current and proposed condition of the proposed location; and the applicant’s ownership stake in the physical location of the facility.	Twenty (20) points
Area impact, including the proximity of the facility to properties zoned or used residentially; and plans for litter control, loitering, neighborhood outreach, noise mitigation, odor mitigation, resident safety, and traffic mitigation.	Ten (10) points
Business operations, including a business plan; charitable giving plan; financing plan; marketing and promotion plan, with an emphasis on reducing exposure to minors; and strategic plan.	Ten (10) points
Facility design, including the provision of glazing, landscaping, and screening above Village minimum requirements; the use of durable building materials; compliance with the Americans with Disabilities Act; and implementation of Crime Prevention Through Environmental Design (CPTED) principles.	Ten (10) points

Energy efficiency, including Energy Star certification; Michigan Energy Code compliance; use of energy from carbon-free sources; and use of WaterSense fixtures.	Five (5) points
Infrastructure impact, including the utilization of green infrastructure or low-impact development design principles to manage stormwater; and the provision of non-motorized transportation infrastructure in excess of Village requirements.	Five (5) points

- (2) Upon timely receipt of the supplemental information described in subparagraph (1), the Village Council or its designees shall assign points for the criteria that are satisfied pursuant to the chart in subparagraph (1) and shall, based on the resulting scores, select applicants who are best suited to operate in compliance with the MRTMA in the Village. The Village shall notify the selected applicants that they have been granted conditional authorization. In the event of a tie score, the Village Council or its designee shall select the applicant who, based on the totality of the circumstances, the Village finds is best suited to operate in compliance with the MRTMA.
  - (3) If an applicant does not timely submit the supplemental information described in subparagraph (1), then the application shall be discarded and shall not be considered under subparagraph (2).
  - (4) For any establishment type not subject to numerical limits or otherwise not subject to the competitive process, the Clerk will conditionally authorize establishments in the order in which applications are received.
  - (5) Once the Clerk has issued conditional authorizations for all of the establishments of a given establishment type that would be permitted, the Clerk will place subsequent applications at the end of the waiting list for that establishment type. Applications shall be included on the waiting list in the order designated by the Village Council or its designees.
- (f) *Final authorization.* The Clerk as directed by the Village Council will grant final authorization for the establishment if the applicant:
- (1) Submits the paperwork for the establishment-specific step of the application for a state operating license to LARA within 30 days of receiving conditional authorization;
  - (2) Submits an application for special use authorization pursuant to this Ordinance within 30 days of receiving conditional authorization;
  - (3) Obtains special use authorization within 6 months of receiving conditional authorization; and

- (4) Receives all required operating licenses and approvals from LARA within 18 months after conditional authorization is granted.
- (g) *Expiration of conditional authorization.* If the applicant for a conditionally authorized establishment fails to satisfy any of the deadlines established above, the conditional authorization will expire. The Village Council may extend any of the deadlines upon a showing of good cause.
- (h) *Waiting list and refund of administrative fee.* The Clerk will keep and maintain the waiting lists established pursuant to this ordinance until the maximum number of establishments of the type to which the list pertains are operating in the Village (at which time the Clerk will discard the waiting list). If a conditional authorization for a proposed establishment of that establishment type expires, the Clerk will conditionally authorize the next application on the waiting list. Upon discarding the waiting list, the Clerk will refund the advance of the annual administrative fee to all applicants remaining on the waiting list.
- (i) *Newly available authorizations.*
- (1) For establishment types for which the maximum number of establishments specified are operating in the Village, an authorization will become available when:
    - (A) The state operating license for an establishment with final authorization expires or is revoked by LARA; or
    - (B) This Ordinance is amended to authorize additional establishments of that establishment type.
  - (2) When an authorization becomes available as set forth above, the Village Clerk will select a date within the next 60 days on which the Village will begin accepting applications from interested persons, and will publish notice of the selected date in a newspaper of general circulation.
  - (3) On the selected date, the Clerk will begin accepting applications using the same process described in subsections (c) and (d) above. If multiple applications are received on that date, the Village Council or its designee will request supplemental information and conduct a competitive selection process as outlined above.

#### SECTION V – RELOCATION OF ESTABLISHMENTS, TRANSFERS OF LICENSES, AND EXPANSION OF GROW OPERATIONS

- (a) An existing establishment may be moved to a new location in the Village, subject to applicable zoning regulations, prior Village Council approval, and approval by LARA. In deciding whether to approve a new location for an existing establishment, the Village Council shall consider the following nonexclusive factors:
- (1) The impact of the establishment’s new location on traffic, parking, public safety, noise,



and aesthetics;

- (2) The impact of the establishment's new location on the community as a whole; and
  - (3) The existing establishment's compliance with Village ordinances and with state law and applicable administrative rules.
- (b) A license for an existing establishment may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by the Village Council and LARA.

## SECTION VI – GENERAL REGULATIONS

- (a) *Submission of Information.* Applicants for Village authorization and persons operating existing establishments in the Village must provide the Village Clerk with copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by or on behalf of LARA. Documents must be provided to the Clerk within 7 days of submission to LARA, and may be submitted electronically to the Village unless otherwise requested by the Clerk.
- (b) *Compliance with applicable laws and regulations.* Adult-use marihuana establishments must be operated in compliance with the MRTMA, MRTMA rules, all conditions of the establishment's state operating licenses, and all applicable Village ordinances. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.
- (c) *No consumption on premises.* No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any establishment. It shall be a violation of this chapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marihuana on or within a premises in violation of this section:
- (1) The person had control over the premises or the portion of the premises where the marihuana was consumed;
  - (2) The person knew or reasonably should have known that the marihuana was consumed; and
  - (3) The person failed to take corrective action.
- (d) *Annual fee.* A licensee must pay a fee of \$5,000 for each license used within the Village in order to help defray administrative and enforcement costs. The initial annual fee(s) must be paid to the Village Clerk when the application for Village approval is submitted. In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license. The amount of the annual fee may be reduced by resolution of Village Council, without an amendment to this Ordinance.

## SECTION VII – VIOLATIONS

- (a) *Request for revocation of state operating license.* If at any time an authorized establishment violates this chapter or any other applicable Village ordinance, the Village Council may request that LARA revoke or refrain from renewing the establishment’s state operating license.
- (b) *Civil infraction.* It is unlawful to disobey, neglect, or refuse to comply with any provision of this chapter. A violation of this chapter is a municipal civil infraction. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to the following fines:
  - (1) First violation = \$500
  - (2) Second offense = \$2,500
  - (3) Each subsequent offense = \$5,000
- (c) *Other remedies.* The foregoing sanctions are in addition to the Village’s right to seek other appropriate and proper remedies, including actions in law or equity.
- (d) *Nuisance.* A violation of this Ordinance is deemed a nuisance *per se*.
- (e) *Administration & Enforcement.* This ordinance shall be administered and enforced by the Village Zoning Administrator, or by such other person(s) designated by the Village Council 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 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.

## SECTION IX – PUBLICATION & EFFECTIVE DATE

This Ordinance shall take effect 30 days after the date of its adoption and approval.

The undersigned, Clerk for the Village of Northport, hereby certifies that the foregoing Ordinance was adopted by the Village of Northport Council on the 17 day of October, 2019. It was published in the *Leelanau Enterprise* on the 31 day of October 2019 and a copy of the same was filed with the Leelanau County Clerk on the 26 day of November 2019.

Village of Northport

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Joni L. Scott, Clerk

