

VILLAGE OF NORTHPORT
ORDINANCE NO. 124

An Ordinance enacted pursuant to the authorization(s) granted to cities, villages, and townships by the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL §333.27102 *et seq.* (MMFLA), as may be amended, to allow certain medical marihuana facilities 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 Medical Marihuana Facilities Ordinance*.

SECTION II – DEFINITIONS.

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

- (a) *Administrative Rules* means the administrative rules for medical marihuana facilities issued by LARA on or about November 27, 2018.
- (b) *Co-location or co-located* means the siting and operation of a combination of multiple facilities or facility types at a single location.
- (c) *LARA* means the Department of Licensing and Regulatory Affairs and any successor department or agency within the department, including the Bureau of Medical Marihuana Regulation, Medical Marihuana Licensing Board, and/or the Marihuana Regulatory Agency.
- (d) *Licensee* means a person holding a state operating license for a medical marihuana facility.
- (e) *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.
- (f) *Medical marihuana facility or facility* means a medical marihuana grower, medical marihuana safety compliance facility, medical marihuana processor, medical marihuana secure transporter, medical marihuana provisioning center, or any other type of medical marihuana-related business licensed by LARA under the MMFLA.
- (g) *Medical marihuana grower* means a commercial entity located in this state and licensed by

LARA that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.

- (h) *Marihuana processor* means a commercial entity located in this state and licensed by LARA 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 or another processor.
- (i) *Medical marihuana provisioning center* means a commercial entity located in this state and licensed by LARA 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 medical marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through LARA's medical marihuana registration process in accordance with the MMMA is not a provisioning center for purposes of this Ordinance.
- (j) *Medical marihuana secure transporter* means a commercial entity located in this state and licensed by LARA that stores marihuana and transports marihuana between marihuana facilities for a fee.
- (k) *Medical marihuana safety compliance facility* means a commercial entity licensed by LARA that takes marihuana from a medical marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the medical marihuana facility.
- (l) *MMMA* means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, as amended, MCL §333.26424 *et seq.*
- (m) *MMFLA* means the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended, MCL §333.27102 *et seq.*
- (n) *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL §333.27951 *et seq.*
- (o) *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.
- (p) *State operating license* or, unless the context requires a different meaning, "*license*" means a license that is issued by LARA under the MMFLA that allows the licensee to operate a medical marihuana facility.

SECTION III – AUTHORIZED FACILITIES

- (a) *Authorization and special use permit required.* No person shall operate a medical marihuana facility 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 facilities eligible for authorization.* The following numbers of medical marihuana facilities may be authorized to operate in the Village, subject to this Ordinance:

- (1) Not more than one (1) 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 one (1) provisioning centers;
- (5) Not more than one (1) processor;
- (6) Not more than one (1) secure transporter;
- (7) Not more than one (1) safety compliance facilities;

(c) *Final authorization from Village required.* The authorization process described in Section IV determines the locations in the Village at which facilities may operate. A proposed facility is not eligible to operate until the Clerk grants final authorization and until the applicant receives a special use permit 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 a medical marihuana facility 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 an amount established by resolution of the Village Council.
- (2) An advance of the annual administrative fee established by the Village Council.
- (3) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, and officers of the proposed facility.
- (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 administrative 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 administrative contact person), contact information for the administrative 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 address, tax identification number, and current zoning designations of the property on which the proposed medical marihuana facility will be located;
- (D) The name and address of the current property owner of record of the property on which the proposed medical marihuana facility 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 medical marihuana facility property.
- (F) The proposed facility 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 facility at any time during normal business hours to ensure compliance with applicable laws and regulations;
- (I) A location area map of the proposed marihuana facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana facility'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 MMFLA (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 MRTMA, 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 MMFLA;
- (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 facility type subject to numerical limitations 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 facilities of the proposed facility type currently operating within the Village;
 - (2) The number of pending applications for the desired facility type; and
 - (3) The process by which an applicant will be selected pursuant to subparagraph (e).
- (e) *Conditional authorization and random selection process.* The Clerk will conditionally authorize facilities 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 facility 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 MMFLA 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 MMFLA 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 MMFLA.

- (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 facility type not subject to numerical limits, or otherwise not subject to the competitive process described in subsection (e)(1), the Clerk will conditionally authorize facilities in the order in which applications are received.
 - (5) Once the Clerk has issued conditional authorizations for all of the facilities of a given facility type that would be permitted by this ordinance, the Clerk will place subsequent applications at the end of the waiting list for that facility type. Applications shall be included on the waiting list in the order designated by the Village Council or its designees under subparagraph (2).
- (f) *Final authorization.* The Clerk will grant final authorization as directed by the Village Council for the facility if the applicant:
- (1) Submits the paperwork for the facility-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 within 30 days of receiving conditional authorization; and
 - (3) Obtains special use authorization within 6 months of receiving conditional authorization.
 - (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 facility 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 subsection (e) until the maximum number of facilities 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 facility of that facility 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 facility types for which the maximum number of facilities are operating in the Village, an authorization will become available when:
 - (A) The state operating license for any facility with final authorization expires or is

revoked by LARA; or

- (B) This Ordinance is amended to authorize additional facilities of that facility 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.

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

- (a) An existing facility 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 facility, the Village Council shall consider the following nonexclusive factors:
 - (1) The impact of the facility’s new location on traffic, parking, public safety, noise, and aesthetics;
 - (2) The impact of the facility’s new location on the community as a whole; and
 - (3) The existing facility’s compliance with Village ordinances and with state law and applicable administrative rules.
- (b) A license for an existing facility 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 facilities 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. The 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.* Medical marihuana facilities must be operated in compliance with the MMFLA, MMFLA rules, all conditions of the facility’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 facility. 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 facility violates this chapter or any other applicable Village ordinance, the Village Council may request that LARA revoke or refrain from renewing the facility'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

Joni L. Scott, Clerk

¹Amended with Village Ordinance 129 of 2021 on 8/4/2021